REPORT OF THE RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

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REPORT OF THE RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

TUESDAY, SEPTEMBER 18, 1984

House of Representatives,
Committee on Ways and Means,
Subcommittee on Public Assistance
and Unemployment Compensation,
Washington, DC.

The subcommittee met at 2 p.m., pursuant to notice, in room B-318, Rayburn House Office Building, Hon. Harold Ford (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[For immediate release, July 26, 1984]

Hon. Harold Ford (D., Tenn.), Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, Announces a Public Hearing on the Report of the Railroad Unemployment Compensation Committee To Be Held on Wednesday, August 8, 1984 [1]

The Honorable Harold Ford (D., Tenn.), Chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means, U.S. House of Representatives, today announced a public hearing on the report of the Railroad Unemployment Compensation Committee. The hearing will be held on Wednesday, August 8, 1984, in room B-318, Rayburn House Office Building, beginning at 10:00 a.m.[1]

The Railroad Unemployment Compensation Committee was established by Section 504 of the Railroad Retirement Solvency Act of 1983 (Public Law 98-760. The committee—made up of two members representing railroad labor, two members representing railroad management, and one public member—was charged with making recommendations to the Congress on ways to improve the solvency of the railroad unemployment compensation program and on changes in the program that would allow for the repayment of all loans from the Railroad Retirement Account by the end of the year 2000. Among other aspects of the railroad unemployment compensation program, the committee was specifically directed to examine coverage of railroad employees under the Federal-State unemployment compensation program. The committee's report was submitted to the Congress on June 29, 1984.

The public member and the two labor representatives on the committee have recommended retaining the current railroad unemployment compensation program with a number of changes to improve the solvency of the program. The two management representatives state that, if the current separate program is retained, they concur in the recommended amendments to the program. The management representatives, however, prefer coverage of railroad workers under the Federal-State unemployment compensation program.

The Subcommittee intends to examine all of the issues addressed by the report, including the need for a separate railroad unemployment compensation program, the adequacy of the loan repayment recommendations made by the committee and the effect on rail employees, rail employers and States of covering rail workers under the Federal-State unemployment compensation program.

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[1] The hearing was subsequently postponed and rescheduled for 2 p.m., Tuesday, Sept. 18, 1984.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard by telephone to Harriett Lawler [(202) 225-3627] no later than close of business Friday, August 3, 1984, to be followed by a formal written request to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, DC 20515. Notification to those scheduled to appear will be made by telephone as soon as possible after the filing deadline.

In order to assure the most productive use of the limited amount of time available to question witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 50 copies of their prepared statements to the main Committee office, Room 1102 Longworth House Office Building, at least 24 hours in advance of the scheduled appearance.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where the witness or a designated representative may be reached);
2. A list of any clients or persons, or any organization for whom the witness appears; and
3. A topical outline or summary of comments and recommendations.

WRITTEN STATEMENT IN LIEU OF PERSONAL APPEARANCE

For those who wish to file a written statement for the printed record of the hearing, six copies are required and may be submitted by the close of business Friday, August 17, 1984, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, DC 20515. An additional supply of statements for the printed record may be furnished for distribution to the press and public if supplied to the Committee office before the hearing begins.

Chairman **Ford**. The Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means will come to order.

Today we have called on the Railroad Unemployment Compensation Committee for the purpose of hearing from that committee, which was established by the Congress last year in the Railroad Retirement Act of 1983, Public Law 98-76.

Today we are going to take testimony on the report of the Railroad Unemployment Compensation Committee. The committee is made up of two members representing rail management, two representing rail labor and one public member. It was charged with examining all aspects of the railroad unemployment compensation system.

We wanted to give the industry a chance to make recommendations for the Congress on how this system can be made solvent. In addition, we directed the committee to report on how the outstanding unemployment loans from the rail pension system will be repaid by the year of 2000.

The committee was directed to report to the Congress by April 1, 1984. It failed to meet that deadline.

Instead, it submitted an interim report on that date. In its final report submitted on June 29, 1984, the committee also failed to recommend a plan to repay all loans from the rail pension fund by the year 2000. Forgiving interest on a loan is not repayment. I appreciate the start the committee has made, but want to point out that a lot more work needs to be done.

The need for an examination of the rail unemployment system is clear. At the end of May of this year, the rail unemployment system owed the rail pension fund over $700 million.

This debt will continue to grow. In fact, under moderate economic assumptions, current rail unemployment taxes will not pay for current benefits until some time in fiscal year 1987.

The ability of the rail unemployment fund to borrow from the pension fund expires at the end of fiscal year 1985. Some legislative action will have to be taken before the borrowing authority expires.

Today we start the process of determining what that action should be. We will hear from the members of the committee, Members of Congress, the administration, the States, and representatives of rail pensioners.

I look forward to today's session. We have members who have busy schedules and some that will probably conflict unless we call upon them right away.

[Mr. Campbell submitted the following opening statement:]

OPENING STATEMENT OF HON. CARROLL A. CAMPBELL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. Chairman, I join you in welcoming today's witnesses from the Railroad Unemployment Compensation Committee.

Last year the strained condition of the railroad unemployment system led the Congress to pass the Railroad Solvency Act of 1983. This Act gave some immediate, but temporary, relief to the railroad unemployment system. For example, the ability of the railroad unemployment system to borrow from the railroad retirement system expires October 1, 1985.

Congress recognized that a long-term solution to the railroad unemployment problem required detailed attention by the parties most familiar with the issues, namely railroad management and labor. Thus the Railroad Solvency Act of 1983 established a Railroad Unemployment Compensation Committee composed of railroad management and labor.

This blue-ribbon Committee was directed to investigate fundamental changes in the unemployment system which would improve its long-term financial stability. For example, the options ranged from higher payroll taxes, structural reform, to merger with the regular federal-state system. Each option has its own advantages and disadvantages; its own set of tradeoffs.

After almost a year of study the Railroad Unemployment Compensation Committee issued its report. My initial review of the report leaves me skeptical that we could support all of the recommendations. That is why I am eager to hear the Committee members describe and defend their conclusions. While everyone might not be in agreement on all issues, it would be helpful to identify common areas of understanding. The Committee's detailed analysis and recommendations can be a useful starting point for future Congressional action. I thank the Committee members for the considerable time and talent which they brought to this assignment.

Chairman **Ford**. We are delighted to have Mr. Florio from New Jersey as our first witness before the subcommittee. Unless other members would like to be recognized at this time for an opening statement, the Chair will call upon our distinguished colleague from New Jersey.

STATEMENT OF HON. JAMES J. FLORIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. **Florio**. Thank you very much, Mr. Chairman, and members of the committee. I am pleased to be here, and ask permission to insert my full statement in the record.

Chairman **Ford**. Without objection.

Mr. FLORIO. I will deliver it in an abbreviated form because, as I indicated, I do have a conference committee session I have to get to.

I want to express my appreciation for the opportunity to give you some brief thoughts on this subject. This committee and our committee, the committee Mr. Lent and I are members of, worked very closely together 1 year ago now to try to formulate some proposals that would deal with the railroad retirement problem.

And, of course, in the context of dealing and fashioning, I think, successfully a response to the problem that avoided the cuts that had been advocated by some, we discovered the problems associated with the railroad unemployment insurance system. And in the course of the Solvency Act, in the course of passing the Solvency Act, we began to deal with the unemployment problems as well.

You recall a couple of things we did, first, the tax base for the unemployment insurance system was raised from $400 to $600 a month. A temporary repayment tax was instituted to help repay the debt to the retirement system.

The authority of the unemployment insurance system to borrow from the retirement system was cut off effective September 30, 1985. Last, and the subject of today's hearing, a five-member committee, the Railroad Unemployment Compensation Committee, was set up to make recommendations on the future of the unemployment insurance system.

The committee has submitted its report and, in fact, it is the subject you are dealing with today. I would like to identify with the conclusions of the report in general.

That is to say the general proposition is that the railroad unemployment insurance system should continue generally as it has been maintained.

This is in contrast to the proposal of the administration, which is to somewhat radically change the whole system by farming it out to the States, by providing the railroad employees with the same coverage that general employees have, incorporating them into the unemployment compensation systems that the various States have.

I think most people are aware of the fact many of those State funds are themselves in very serious difficulty, owing billions of dollars to the Federal unemployment account, that is the general Federal unemployment account.

I am convinced that the existing separate system has worked well generally. There may be some need for modifications, but the system should be maintained in general terms in the way it currently is.

I would just like to spell out some of the concerns that I have as to why we should not be breaking up the system and giving it to the individual States. In particular, the railroad unemployment insurance system has been coordinated with the railroad sickness insurance system and the railroad retirement system, all administered by the Railroad Retirement Board.

This coordination would be lost under the administration's proposal to break up the national railroad unemployment insurance system and give it out to the States. In addition, Congress has periodically enacted programs to deal with special problems of unemployment caused by financial crises at particular railroads, Milwaukee, Rhode Island, Conrail are a few names to refresh your recollection.

Because of this across-the-board coordination, the Railroad Retirement Board has been able to generally administer these special programs more effectively to the benefit of railroad employees and the general public. That certainly would not be the case if the system were broken up.

The railroad industry is obviously interstate in scope. A single national program can ensure that all railroad employees are treated consistently. In addition, a separate system is more responsive to unique conditions in the railroad industry.

Because of the nature of railroad operations, railroad employees often work under different and more difficult conditions than other employees that may not be operating on a national basis.

There are lots of other reasons why the current system should be maintained which are more fully dealt with in the committee's report that I am sure you will be delving into in more depth throughout the course of the hearing.

As I said earlier, the current system is not perfect. Indeed, one glaring problem is the current low level of benefits provided by the railroad unemployment insurance system.

Maximum benefits weekly are $125, unchanged since 1976. I understand that about 42 States have higher maximum benefits. I am pleased the committee's report recommends a badly needed increase in these benefits.

Our Nation's unemployed railroad workers need and deserve a more equitable level of benefits. The report of the Committee includes a number of other recommendations, including recommendations to deal with the financial problems of the system.

I expect this subcommittee and my subcommittee will continue to work closely as we review these recommendations. I would at this point yield to the committee and ask that my full statement be put into the record.

[The prepared statement follows:]

STATEMENT OF HON. JAMES J. FLORIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM, COMMITTEE ON ENERGY AND COMMERCE

Mr. Chairman and Members of the Committee, I appreciate the opportunity to testify today on the report of the Railroad Unemployment Compensation Committee and the railroad unemployment insurance system.

Last year, our two Committees worked closely together to prevent drastic cuts in retirement benefits to one million railroad retirees. Without Congressional action, the nation's railroad retirees would have suffered 40 percent cuts in their Tier 2 benefits last October 1, with a projected additional 40 percent cut this coming October 1. Fortunately, Congress passed the Railroad Retirement Solvency Act in August of 1983 to prevent these cuts.

During Congressional consideration last year of the problems with the retirement system, we become aware of problems in the railroad unemployment insurance system. In particular, the unemployment insurance system had borrowed several hundred million dollars from the retirement system to pay unemployment benefits during the recession. This borrowing was not only creating problems for the retirement system but it also indicated a problem in the unemployment insurance system.

Our two Committees agreed on several provisions in the Solvency Act to begin to deal with this problem. First, the tax base of the unemployment insurance system was raised from $400 to $600 a month. A temporary repayment tax was instituted to help repay the debt to the retirement system. The authority of the unemployment insurance system to borrow from the retirement system was cut off effective September 30, 1985. And, a five member Committee, the Railroad Unemployment Compensation Committee, was set up to make recommendations on the future of the unemployment insurance system.

The Committee has recently submitted its report to Congress. The consensus of the Committee is that the separate railroad unemployment insurance system should continue. This position, of course, is in complete contrast to the Administration's position. The Administration has submitted legislation to turn the system over to the states.

I must vigorously oppose the Administration's proposal. As this Subcommittee is painfuly aware, various states owe billions of dollars to the Federal Unemployment Account. Many states are having difficulty adjusting their own unemployment insurance systems to repay their debts. Adding additional workers to the state unemployment rolls would only make this problem worse. This proposal is just one part of the Administration's "New Federalism" agenda to make the states pay more.

Aside from my opposition to further increasing the burden on hard pressed states, I must oppose this proposal because I believe the existing separate system has worked generally well over the years. Of course, the system is far from perfect or we wouldn't be here today. But there are a number of sound public policy reasons to maintain the current system, which I believe are well spelled out in the report of the Railroad Unemployment Compensation Committee.

In particular, the railroad unemployment insurance system has been coordinated with the railroad sickness insurance and railroad retirement systems, all administered by the Railroad Retirement Board. This coordination would be lost under the Administration's proposal.

In addition, Congress has periodically enacted programs to deal with the special problems of unemployment caused by financial crises at particular railroads, such as the Milwaukee Railroad, the Rock Island Railroad, and Conrail. Because of this across the board coordination, the Railroad Retirement Board has been able to generally administer these special programs more effectively, to the benefit of railroad employees and the general public.

The railroad industry is interstate in scope. A single national program can ensure that all railroad employees are treated consistently.

In addition, a separate system is more responsive to unique conditions in the railroad industry. Because of the nature of railroad operations, railroad employees often work under different conditions than other employees.

There are other reasons, too, why the current system should be maintained, which are more fully dealt with in the Committee's report.

As I said earlier, the current system is not perfect. Indeed, one glaring problem is the current low level of benefits provided by the railroad unemployment insurance system. The maximum weekly benefits are $125 a week, unchanged since 1976. I understand about 42 states have higher maximum benefits. I am pleased that the Committee's report recommends a badly needed increase in these benefits. Our nation's unemployed railroad workers need and deserve a more equitable level of benefits.

The report of the Committee includes a number of other recommendations, including recommendations to deal with the financial problems of the system. I expect this Subcommittee and my Subcommittee to work together next year to review these recommendations. Some of the recommendations may raise difficult issues and will need careful examination. But I am convinced that we can fix the system; we need not discard it.

Chairman **Ford**. It has been made a part of the record.

We know that you do have a busy schedule and will have to leave. If the members have any questions, you may raise them now.

Mr. **Pease**. Mr. Chairman.

Chairman **Ford**. Mr. Pease.

Mr. **Pease**. I do have one question. I must say I found your argument persuasive that the interstate nature of the system argues against letting the States assume responsibility. But I am not sure that I see your point about the advantage of coordination among unemployment insurance, sickness benefits, and retirement benefits. Why is there a need for coordination among those three?

I think most people who are unemployed are not also sick at the same time or also retiring. I am just wondering why it is you feel coordination among the three types of benefits argues persuasively in favor of retention.

Mr. FLORIO. Well, just in terms of the expertise that has been developed at the Board, that would, of course, be lost if we are going to take one-third, it is not necessarily automatically one-third of the responsibilities, but one-third of these three programs and break up the responsibility to allow 50 different, effectively 48, different jurisdictions to be administering the program of unemployment compensation.

We have got a high degree of expertise that has been developed over the years at the Railroad Retirement Board for dealing with these three types of programs that are interrelated and deal with the same populations, not necessarily all at the same time.

But we would be losing that expertise and would be calling upon the 48 different State unemployment compensation systems to effectively develop an area of expertise with regard to railroad unemployment problems that they do not have.

So in terms of just administrative neatness, the experience that the national Board has would be lost. I am just not sure we can afford to lose that expertise and experience.

Mr. PEASE. Thank you.

Thank you, Mr. Chairman.

Chairman FORD. Mr. Stark.

Mr. STARK. Thank you, Mr. Chairman.

Mr. Florio, thank you for your testimony.

Historically, the railroads, with the interstate nature of their fixed investments, have been federally controlled. This bothers me.

This is truer perhaps than in any other industry in the country. We set their rates, and the amount they can depreciate, and all kinds of standards for them. So there might have been some symmetry in letting unemployment benefits be controlled at the Federal level.

But to what extent—and I am just not quite as familiar with this as I am sure the gentleman is—is the current administration attempting to, in effect, take all those controls off?

Are you getting as much decontrol as the airline industry and others?

Mr. FLORIO. In large measure, the railroad industry has been decontrolled pursuant to some legislation we have passed. I am sure we will all hear next year from some who are not as pleased as they could be about decontrol.

The Staggers Act, I suspect, will be revisited. Some will be wanting to go back and look at that.

But there still is a need for national coordination in railroad activities. Collective bargaining goes on on a national basis.

That is, all the brotherhoods deal with all the railroad industry on a national basis.

Mr. STARK. Do unemployment benefits get into the collective bargaining matrix?

Mr. FLORIO. Officially, no. But the fact is that the process for the most part has been that the rails unions, and rail management, come up with recommendations. Those recommendations are what the Congress usually abides by, some of the suggestions. Not necessarily. But there is a relationship, yes.

Mr. **Stark**. Thank you.

Chairman **Ford**. Thank you very much, Mr. Florio.

Mr. **Florio**. Thank you.

Chairman **Ford**. Next witness is Mr. Lent from New York. We are delighted to have you before the committee and you are recognized at this time.

STATEMENT OF HON. NORMAN F. LENT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. **Lent**. Thank you very much, Mr. Chairman. I thank you for calling this hearing today and permitting me to testify here this afternoon.

The future of the Railroad Unemployment Compensation Program is obviously of critical importance to the approximately 30,000 furloughed rail workers who are currently receiving unemployment compensation. Moreover, since the program relies on borrowing from the railroad retirement system, the nearly 1 million beneficiaries of the retirement system are also impacted by any decision regarding the future of the program.

This is demonstrated by the fact that the indebtedness of the unemployment program to the retirement system has climbed to a level exceeding $700 million. This hemorrhaging is not a new phenomenon. The unemployment program has been in debt to the retirement system for 19 of the last 24 fiscal years since borrowing began.

Due to the close relationship of the two systems, it becomes extremely important for Congress to proceed in a deliberative fashion in crafting legislation addressing the insolvency of the unemployment program. In this light, Mr. Chairman, I would like to commend you for holding this hearing today.

The Railroad Unemployment Compensation Committee, created under the Railroad Retirement Solvency Act of 1983, Public Law 98-76, transmitted its report to the Congress in June 1984. The committee was charged with the responsibility of reviewing and making recommendations on two items:

One, alternative measures that address the current insolvency of the unemployment program, such as coverage of rail employees under the Federal/State unemployment compensation system, and two, specific adjustments in contributions and benefits that will assure the repayment of funds the unemployment program has borrowed from the rail industry pension fund.

The committee could not reach a consensus on the issue of whether the Railroad Unemployment Program should remain independent or be merged into the Federal/State system. Although a fallback position was agreed to, there was no unanimity of thought on the future structure of the unemployment program. As a result, the report submitted by the committee to Congress presents two options:

One, continuation of a separate Railroad Unemployment Program, with some changes in the benefit structure, taxes paid into the system, contributions from the rail industry pension fund, and an infusion of Federal funds, or two, coverage of the rail industry by the Federal/State unemployment insurance system.

Rail management clearly endorses the latter approach. As articulated in chapter 4 of the committee's report, the management members contend the "most practicable and preferable alternative" to the present independent Railroad Unemployment Program is to bring the rail industry under the coverage of the Federal/State unemployment system.

The rail labor representatives on the committee, however, do not accept this option and prefer to maintain an independent program, with some modifications to ensure its financial health. If a decision is made to keep an independent system, I would question the wisdom of any financing provisions which place a monetary burden on the rail industry pension fund.

It is my understanding, for example, that the interest on the debt owed to the pension fund would be forgiven, under the approach recommended by a majority of the committee, costing the retirement system approximately $300 million. In my mind, a solution to the financial problems of the unemployment system should not look to the retirement system for funding.

As I am sure you are aware, the administration has transmitted proposed legislation to the Congress—introduced as H.R. 6068 by Congressman Barber Conable—which would provide for the coverage of rail workers under the Federal/State system. The administration's proposal differs from the approach taken by the management members of the committee in the manner in which the transition to the States and the repayment of loans would be made. I am confident that if this type of approach is ultimately selected, that the details of a fair and equitable transition could be worked out.

I might also note the proposal made by the administration to integrate collective bargaining into the rail sickness program, giving rail labor and management the responsibility for the negotiation of those benefits. This proposal, I believe, deserves serious consideration as it removes the Federal Government from an area which is traditionally left to the negotiations of private industry.

An initial assessment of the Federal/State unemployment system reveals a higher level of benefits to furloughed workers in 42 of the 50 States and an opportunity to receive extended benefits, under certain circumstances, for workers regardless of their length of service.

Presently, the rail unemployment compensation system discriminates, in terms of the amount of benefits that can be received, against those with less service in the industry. Clearly, these advantages that would be realized by rail workers under the Federal/State system cannot be overlooked.

From a policy perspective as well, coverage under the Federal/State system would bring the rail industry into conformity with every other industry in the Nation and would ensure a source of future borrowing, relieving the burden that has been placed in the past on the railroad retirement system, which is already overtaxed.

I realize, of course, that a transition over to the Federal/State unemployment system may not be the easiest route to take. However, a transfer holds more promise for the long-term solvency of the system than applying a quick fix solution to the current system.

So in conclusion, at this juncture, while I prefer the Federal/State approach, I maintain an open mind. If a true consensus can be reached between rail labor and management on how best to address this problem, this would have great weight with the Congress, provided, of course, that it does not rely in large part on extensive Federal support and funding.

I look forward to working with your subcommittee, Mr. Chairman, and with Chairman Florio on this issue and hope that a reasonable and lasting solution to this problem can be achieved.

Thank you.

I would be glad to take questions, although I am due to go to the same conference committee Mr. Florio just left for.

Chairman **Ford**. We had about 10 questions for you. Thank you very much for your appearance and testimony before the committee, Mr. Lent.

Are there members with any comments or questions for Mr. Lent? If not, Mr. Lent, thank you again very much for your appearance.

Mr. **Lent**. Thank you.

Chairman **Ford**. The committee would like to call the Railroad Unemployment Compensation Committee, Mr. Robert Myers, chairman; Charles Hopkins, chairman of the National Railway Labor Conference; Mr. William H. Dempsey, president, Association of American Railroads; Mr. Richard Kilroy, international president of the Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees to the table, please.

The subcommittee, once again, would like to welcome members of the committee here before the subcommittee today. We are delighted to have you back.

We know you all spent a considerable amount of time in making the recommendations back to the committee.

We do appreciate your taking the time to share with the subcommittee the findings and recommendations that you have made to the Congress.

At this time the Chair will recognize Mr. Myers.

STATEMENT OF ROBERT J. MYERS, CHAIRMAN AND PUBLIC MEMBER, RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Mr. **Myers**. Thank you, Mr. Chairman. When the Railroad Unemployment Compensation Committee was given this assignment, the first real problem was—and as the Congress pointed out to us—whether the system should remain independent, or whether it should merge with the States' programs.

Mr. Chairman, I am summarizing my testimony. I request the full testimony be put in the record.

Chairman **Ford**. Without objection.

Mr. **Myers**. Labor's position was very strongly that the system should remain independent. Management, on the other hand, preferred that there should be a merger with the State systems, with the important caveat that this should be done only if it could be done equitably and reasonably.

My position, after due deliberation, was that I very much strongly preferred that RUI should remain an independent system. I had three reasons for this.

First, the system had been operating, I think, reasonably successfully from the standpoint of paying benefits and administration for about half a century.

Second, there are advantages in the unified social insurance system, as Chairman Florio discussed with you.

Third, I foresaw great difficulties, if not impossibilities, of a fair and equitable merger of the railroad system back with the various State systems. Management agreed that, if there could not be a fair, equitable, reasonable transition to the State systems, they would consider how the present independent system should be changed on a reasonable basis. So, we all worked together under that presumption and developed the consensus package that is contained in our report.

As with any consensus package—and you are all well familiar with what happened with the Social Security system in 1983—nobody liked the whole package. There were parts of it that some liked, and others that did not like.

It is a matter of any consensus agreement, as you well know, of everybody having to suffer a little pain, and it is the hope to distribute it around equitably.

I also worked with management on its proposal, how a reasonable and equitable transition to the State systems or merger with the State systems could be accomplished, even though I did not favor this.

The management proposal, I think, is the best that can be done in this area, at least, the best that we could come up with. Management did make certain changes in it, following suggestions which I made.

But I still believe in the independent system approach and in the consensus package. However, if I were doing it myself, as in any consensus, some things I would do differently.

When I say that everybody is giving up something in this consensus package, I mean everybody. Railroad workers are taking some cutbacks in benefits.

Management is putting up more in the way of taxes. The General Treasury is being asked for some help. And, in one sense, the railroad retirement system is being asked to help out some.

Of course, in the end, the railroad retirement system is supported by labor and management, not the General Treasury. So again, that is, all you might say within the railroad family.

The most important recommendations in the consensus agreement were as follows. These are not necessarily in order of importance. I am dealing with the financing first, then with benefits.

First, as has been stated, only the principal of the loans that were made by the railroad retirement account to the railroad unemployment insurance account since 1980 would be repaid, and not the accumulated interest. This does not represent any cost to the General Treasury or general taxpayer.

It is true that this is a loss to the railroad retirement account. But the financing of the railroad retirement system, as it was restored in the Solvency Act last year, did not count on anything being repaid other than what was contained in that act, which was a temporary repayment tax.

Our proposed repayment tax, which I will describe in a moment, actually will pay more from railroad unemployment insurance to railroad retirement than present law, even though it does not pay the interest on the accumulated debt.

This new repayment tax, which will be adjusted every 3 years to assure that the rates that are charged will achieve repayment of the principal by the end of the year 2000. So I think that you can fairly say that the consensus agreement will, under almost any circumstances imaginable, repay the principal of the loan.

The third thing that the consensus agreement does is to index automatically the maximum taxable earnings base, which was raised to $600 per month last year. It will index it in the future to two-thirds of the increase in average wages, in somewhat the same manner as the Social Security base increases, except, that in Social Security, it is changed by the full increase.

This change in the RUI taxable base helps the financing of the system by raising it rather than letting it stay frozen as it had, for example, for many years at $400. This provision will raise the base as wages go up. That helps financing of the system.

The fourth thing to be done is experience rating, so that railroads with high unemployment will pay higher rates than railroads with lower unemployment.

On average, this should come out just the same as if a uniform rate were charged, as in the past. This follows the precedent done by all of the States. There is a maximum set, such that no railroad would pay more than 12 percent. For such railroads, the result is that the other railroads will in essence, pay part of the cost for that railroad when its experience is over 12 percent.

Likewise, if the railroad unemployment insurance account ever reaches the happy circumstance that it is quite sizable, there will be an overall reduction in the tax rate that all railroads will pay.

Another thing that is done is just what this committee did in the Social Security legislation last year, which is in the final law. There will be advance quarterly tax transfers. Just as with Social Security, where there are peaking problems as to the benefits being paid at the beginning of the month, with taxes coming in evenly over the month, so, too, in the railroad unemployment insurance system, the benefits go out more or less evenly over each quarter, but the vast majority of the taxes are collected at the end of the quarter.

This advance quarterly tax transfer would be treated just as under Social Security. The general fund would advance the money at the beginning of the quarter to prevent cash-flow problems. But, as this committee insisted with Social Security, appropriate interest would be paid by the railroad unemployment account to the general fund. Thus, there would be no subsidy from the general fund for this advance tax transfer procedure.

The seventh thing that would be done is an outright grant of $135 million from the general fund. The reason for this grant is that, in the past, the State unemployment insurance systems have received preferential treatment from the general fund. For many years, the State systems got interest-free loans. There were also a small amount of benefits financed by the general fund that the railroad system did not share in.

It is my professional opinion that $135 million, considering interest, is an equitable amount. Some of the members of the committee may know about my longstanding position in regard to Social Security, I am usually opposed to general revenue financing.

On the other hand, I think that in this case it is equitable, just as it was equitable in Social Security to pay off the military service wage credits from the general fund.

One other thing is a fail safe device, one that I think will not be used. The railroad unemployment insurance account would have the same authority the State systems now have of borrowing from the general fund, but repaying the loan with appropriate and proper interest.

According to the cost projections which were made for us, this would not occur only to a very slight extent under very pessimistic conditions. Then the loan could be repaid quickly.

Now, turning to the benefit side of the consensus package. Benefits would be cut back some. The first change is not a cutback. There is a recommended increase in the daily benefit rate from $25 to $27, which is only a very moderate increase, considering tnat $25 rate has been in effect for many years, whereas the State systems have increased their benefits

In the future, this amount would be indexed—indexing from the $25, not the $27, in the same way as the base is increased, by two-thirds of the increase in general wages in the country—not by wages in the railroad industry. Again, this closely parallels what is done in the Social Security system, except for the two-thirds factor.

Another benefit change, a cutback, was that the qualifying conditions for benefits would be made stricter. Instead of requiring annual earnings equal to three times the monthly maximum base, this would be increased to five times the monthly maximum base before an individual could qualify. Further, the individual would have to have actual employment in 6 months of the base year.

Another change that would be made both for unemployment insurance and sickness insurance was with regard to the number of days of benefits paid for the first 2-week registration period. At present, benefits are paid for 10 days out of the 14-day period. In essence, this is no waiting period, because the 4 days that are not paid are Saturdays and Sundays. And the consensus agreement recommends that benefits in the first 2-week period should be paid only for 7 days, which, in essence, is something like a half-week waiting period.

Finally, the employers will be given more possibility of participation in claims actions, just as long as this will not slow down benefit payments. It is hoped that this will control costs, particularly necessary with the proposed experience rating.

Finally, as to the financial situation resulting under the consensus package, it was developed to make the system financially viable under pessimistic economic conditions. I emphasize pessimistic, not even intermediate, conditions—let alone optimistic ones.

The provision of loans from the general fund would not be utilized in the next 15 years except in the most pessimistic estimate, in which small loans would be needed in 1987 and 1988, but they would be repaid in 1989.

Even if the experience is worse than in the most pessimistic estimate, repayment of the loans could readily be made in a very few years as a result of the recommended surcharge tax rate.

If the fund gets too low, there is a surcharge tax rate on all employers. In summary then, I believe that the consensus package is a financially responsible and equitable one that will restore the RUI system to solvency and maintain it over the years.

Chairman FORD. Thank you.

[The prepared statement follows:]

STATEMENT OF ROBERT J. MYERS, CHAIRMAN, RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Mr. Chairman and Members of the Subcommittee: My name is Robert J. Myers. I served in various actuarial capacities with the Social Security Administration and its predecessor agencies from 1934 to 1970, being Chief Actuary for the last 23 years. In 1981-82, I was Deputy Commissioner of Social Security. Then in 1982-83, I was Executive Director of the National Commission on Social Security Reform. In 1979-81, I was a member of the National Commission on Social Security.

Last December, the two representatives of railroad labor and the two representatives of railroad management requested me to be the public member of the Railroad Unemployment Compensation Committee, which was established pursuant to Section 504 of the Railroad Retirement Solvency Act of 1983.

I shall not speak at great length about our Report, because the Subcommittee has had time to consider it following its submission on June 29. As with any consensus agreement, none of the members of our Committee are enthusiastic about all of the recommendations made. However, we are agreed that, under the circumstances, the consensus agreement is the best method to achieve long-range financial solvency for the program if it is to remain an independent one. I do not believe that it is appropriate for me to point out where I would rather have seen other action taken.

The first problem facing the Committee was whether RUI should continue as an independent system, or whether it should, in some manner or other, be merged with the federal/state system. The two labor members believed very strongly that RUI should continue as an independent system and, in balance, I too believed that this was the better approach. The two management members strongly preferred a merger with the federal/state system if this could be done in an equitable and reasonable manner—but if not, then they joined with the other Committee members in developing the consensus package under the independent-system approach. All of the members of the Committee believe that the proposal of the Administration for a merger of RUI with the federal/state system, as transmitted by the Secretary of Labor in a draft bill to the Congress on June 4, should not be enacted.

I had several reasons for preferring to maintain RUI as an independent system. First, I believed that the program had been operating successfully from an administrative standpoint for nearly half a century, and I did not see sufficient reasons to alter the situation. Second, I saw advantages in having all of the federally-legislated employee benefits for the railroad industry—retirement, disability, survivor, sickness, and unemployment—being administered by one government agency. Third, I saw great potential difficulties—if not impossibilities—in developing a reasonable and equitable transition from an independent system to the federal/state system.

Despite my strong preference for the independent-system approach, I did work with the two management members to develop the best possible method of merging RUI with the federal/state system, if this were to be done.

In concluding, I shall list the several recommendations in the consensus package for a continued independent RUI system. Several of these recommendations are also contained in the proposal of the two management members for a merger of RUI with the federal/state system, and I believe that they will describe that proposal in detail in their testimony. The 14 recommendations in the consensus package are as follows:

(1) The accrued interest on loans from the Railroad Retirement Account would not be repaid, although the full principal would be. It should be noted that this in-

volves, in essence, only financial transactions within the railroad industry and its employees, and it does not represent any cost at all to the federal government or the general taxpayer.

(2) The present loan-repayment tax should be replaced by a similar tax at a level rate that, after adjustment every 3 years, will fully pay off the principal by the year 2000. This represents a distinct improvement over present law, where the repayment tax does not even take care of the outstanding principal, let alone any interest thereon. The financing of the Railroad Retirement system is *not* founded on receiving any more from RUI than the proceeds from the present repayment tax.

(3) The maximum taxable earnings base should be indexed by 2/3 of the rate of increase in the nationwide wage level. This is a distinct improvement over the past situation where the base remained constant—and thus relatively deteriorated—for long periods of years.

(4) The tax rate should be experience rated for each employer. This follows the procedure under the state systems and will encourage employers to stabilize employment.

(5) A surcharge tax rate should be provided when the fund balance is low. Similarly, when the fund balance is very large, a flat tax-rate credit would be given. This serves as a stabilizing and, to a considerable extent, fail-safe device.

(6) The bands in the schedule determining the surcharge tax rate should be indexed for increases in the total taxable payroll. This is desirable so as to recognize changes in economic conditions.

(7) The allocation for administrative expenses should be increased slightly, to an appropriate level. The administrative costs of the system have been reasonable, but the long-time freezing of the earnings base made the previous allocation rate insufficient.

(8) Advance quarterly tax transfers should be made, repayable with interest. This is the same procdure as is provided to the Social Security trust funds as a result of the Social Security Amendments of 1983.

(9) A grant of $135 million should be made by the General Fund. This will equalize for past preferential treatment given to the state systems, primarily through direct or indirect interest-free loans.

(10) The RUI account should be able to borrow from the General Fund, repayable with appropriate interest. It seems only fair to give RUI the same treatment as the state systems have. As discussed later, the Committee believes that, even under very pessimistic future conditions, such borrowing will not likely be necessary, or at most will be of only relatively small size, with repayment quickly.

(11) The maximum daily benefit rate should be increased from the present $25 to $27, and later should be indexed in approximately the same manner as the maximum taxable earnings base. It seems desirable, just as in the case of the earnings base, that some automatic adjustment should be made in the future, so as to reflect changes in economic conditions in the country.

(12) Qualifying conditions should be made stricter by requiring covered wages in a year to be at least 5 times the monthly maximum base subject to tax, and by requiring actual service in at least six months of such year. This change is made to reduce the cost of the program and to prevent benefits being payable for much longer than the period of actual employment.

(13) Benefits should be payable for a maximum of 7 days (instead of the present 10 days) in the first 14-day registration period in each benefit year. At present there is, in essence, no waiting period, and this proposal would reduce costs by establishing approximately a ½-week waiting period.

(14) Employers should be given more possibility of participating in claims actions, but not so as to prevent timely payment of benefits. Such procedures are effective in the state systems, and they especially seem necessary if there is to be experience rating.

The consensus package was developed so as to make the RUI system financially viable under pessimistic employment assumptions. The provision for loans from the General Fund would not be utilized in the next 15 years under these assumptions, except under the very most pessimistic set, under which small loans would be needed in 1987–88, but would be repaid in 1989. Even if the experience is worse than in the most pessimistic estimate, repayment of the loans could readily be made in a very few years as a result of the recommended surcharge tax rate. In summary then, I believe that the consensus package is a financially responsible and equitable one that will restore the RUI system to solvency and maintain it over the years.

Chairman **Ford**. The Chair recognizes Mr. William Dempsey, president of the Association of American Railroads. He will be spokesperson for management.

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS, AND CHARLES I. HOPKINS, JR., CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE, BOTH MANAGEMENT MEMBERS, RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Mr. **Dempsey**. Thank you, Mr. Chairman. I am accompanied by Mr. Hopkins, chairman of the National Railway Labor Conference. We did serve as management members of the committee and are glad to be here to present our views briefly. Because Dr. Myers, who did such an outstanding job as chairman, has really covered most of the essential ingredients of, at least, the concensus package I have nothing to add to that at all.

As indicated, the management members favor a different approach. That is the approach of transfer, abolition of the RUI and transfer of the system to the Federal/State system. Arguments against that in principle do not seem to us to be persuasive.

It was mentioned that we have interstate employees in effect who move from one State to another and, of course, we do. But, of course, so do our competitors, motor carriers, and barge lines, and airlines.

They have encountered no particular difficulty in administering the system. If it be said that railroad employees all ought to get the same in the way of benefits, I have a little difficulty with understanding why, as a matter of equity, it is preferable to give the railroad employee in New York the same benefit as the railroad employee in Mississippi, instead of giving him in New York the same benefit as his next-door neighbor, the truckdriver.

So it seems what we are dealing with is another aspect of the attitude that had been in effect in the Congress until relatively recently of giving different treatment to the railroads than anybody else.

We, after all, have been regulated since the last century. We have our own sickness and unemployment compensation system mandated by Congress. I must say that from our perspective that in general has been ruinous.

And the Congress, I think, recognized that in principle in 1980 when they enacted the Staggers Act where we had most of the industry—not most, but 22 percent of our trackage—in bankruptcy.

The whole Northeast had collapsed. The disease had spread to the Middle West in the Rock Island and Milwaukee bankruptcies. It was obvious something had to be done.

It was clear to the Congress that one important element of the difficulty was this separate treatment that had been given to the railroads. So we think that in terms of public policy it would be better if RUI had never been enacted and if we were part of the Federal/State system.

In chapter 4 of the report, we outline a program for a transfer that Dr. Myers agrees with, if that is the way that the Congress chooses to go, though Dr. Myers believes, along with the labor members, that it would be better to keep the system basically as it is.

I will leave to chapter 4 the details of that plan, although, of course, we are glad to respond to it. The point, though, that I wish to emphasize in this connection is that from our perspective it all depends on how this is done.

And the administration's proposal for moving to the Federal/State system would be ruinous to the railroad industry. If that is the alternative or anything remotely approaching it, then we would much prefer the concensus approach, and maintenance of the present system.

Let me take a moment and tell you what happens under the transfer as visualized by the administration's program.

We would pay from the effective date of State coverage the full Federal tax, full State unemployment taxes, including the portions of the taxes that go toward repayment of the State debts that we got no benefit from at all. We would, of course, be paying off the debt we incurred, and we would continue to pay, for a substantial period of time regular RUI taxes. So in short we would pay the following taxes for some years until into the 1990's.

One, maximum contributions. The maximum contributions now required by RUI.

Two, the repayment tax that was enacted last year by the Congress.

Three, the full Federal tax under the Federal/State system.

And, finally, the full State unemployment compensation taxes.

Now we are talking about roughly a doubling of our tax burden and we are talking about, among other things, as I have indicated, helping pay off State debts that we obtained no benefit from at all.

Representatives of OMB have testified before and indicated to the committee in our sessions with them that at least one of their reasons for seeking a move to the Federal/State system is their conviction that the railroads simply can't afford any longer to bear the cost of the separate RUI system.

Well, I suggest that it is hardly meeting that problem to present us with an option under which our taxes would be so astronomically increased.

So, as I say, if that is the choice, really, for us, it is not a real choice. We would then join fully in support of the consensus approach as recommended by all the members of the committee. I should say something else. We are engaged in a more refined projections in terms of the financial consequences of alternative approaches to this problem than the committee had time to do when we put in our report, and the preliminary indications are that it is not going to be easy, at best, to design a transfer to the Federal/State system that will not impose an intolerable financial burden on the railroads.

Under the consensus approach, the burden is shared by employees by virtue of benefit reductions. There is a $135 million Federal contribution, as Dr. Myers indicated, in light of past discrimination against the system. But the heaviest burden by far falls on the railroads. We are talking about an increased tax liability imposed on the railroads of a little over $2 billion during this period of time.

So that is a heavy enough burden, we suggest with all respect to ask the railroads to bear. And to be compared with the administration's program, that to us is just out of sight.

We have not had an opportunity to examine with care the administration's statement. I just got it as I walked in the room. We would appreciate the opportunity to analyze it with care and give our written comments on it.

Mr. Hopkins has had a little bit more of a chance than I to look at it and I would like to turn to him for at least a few preliminary comments.

The one I would make, for example, is that as far as I can tell all of their, the brunt of their criticism of the consensus proposal, probably our proposal as well, all turns on the question of whether or not interest to the railroad retirement fund would be forgiven.

It is certainly true that if interest is not forgiven, then our proposal doesn't wash. That is an essential ingredient of the proposal.

In that connection, I would say just a word about the issue because it will clearly be an important one to the committee and to the Congress.

As Dr. Myers says, we are not dealing here with forgiveness of interest to the Federal Government. We are dealing with forgiveness of interest to a fund that is supported by the parties. Mainly by the carriers, but partly by employees.

In those circumstances I really don't see any theology involved here. I suggest, the only legitimate question is whether or not the forgiveness of interest would impair the financial integrity of the railroad retirement fund.

If it would, then, of course, interest should not be forgiven, and it is significant, I suggest that representatives of employees have agreed to this proposal.

At the same time, we understand and agree with the proposition that the Congress stands as the watchdog for the railroad retirement account as well as the unemployment account. But all of the projections we have on any kind of reasonable projections indicate this would in no way impair the financial integrity of the railroad retirement account. And there are periodic evaluations so that if somehow things should go awry, then the railroad retirement taxes will have to be increased.

Let me illustrate that point by saying this. Our most pessimistic assumption posits an average annual decline in employment of 5 percent. That is not pessimistic; that is catastrophic. It is only under that assumption that the railroad retirement fund at any time gets in trouble and then only in the late 1990's.

So there is plenty of time to look at that. But, beyond that, should that befall us, the matter of interest forgiveness is not going to matter one bit. We will be in such trouble then that pay the interest or not, there will have to be some other kind of radical solution to that kind of problem for the railroad retirement account.

I don't think it is within the realm of possibility that that would happen and it is only under that scenario, as I say, that the forgiveness of interest would have an adverse impact on the account.

I turn to Mr. Hopkins.

Chairman FORD. Mr. Hopkins is recognized.

Mr. Hopkins. Thank you. I have very little to say because I too have had very little time with the OMB statement.

But after leafing through it, there are a couple of things I can say, partly by way of amplification of things Bill Dempsey has already said.

I have difficulty squaring what bits and pieces I have been able to read today with other positions OMB advanced at previous hearings and in discussions with OMB. I would like to pause there and say that we have had discussions with OMB and would expect and hope that we will continue to do so in the hope that we can find common ground that would produce some mutually supportible reconciliation of whatever differences may exist.

Getting back to the thread of this, it has been said before by the administration and OMB that one of the foremost reasons for transferring the system, to the Federal/State system, is, as Mr. Dempsey pointed out, because the present tax levels the industry is enduring are at the border of insupportable, and that it no longer can afford an independent system.

However, when the OMB spokesman appeared before the Railroad Unemployment Compensation Committee and we went over the figures, which they did forthrightly and candidly, it came to light that the proposal of OMB would cost the industry more than twice what the current law would cost over the near term.

Then, at another point in time, Mr. Stockman testified before your committee. I just happen to have this with me. He was asked a question by the chairman, Congressman Ford, about the proposed restructuring, and he said that "whenever someone proposes a major reshuffling or restructuring of things, you ought to be cautious because you can get into more trouble than you sometimes anticipate."

Then he went on to say:

> I would say in this case your only alternative is to put such a big tax on the industry if you are going to really pay off that debt and soundly fund the systems, a fivefold or sixfold increase, that in addition to these additional measures to save retirement on top of the already large burden that they have for financing their employee benefit system, you are going to end up doing a fairly severe damage to the industry.

Nevertheless, evidently from the bill and from the statement submitted on behalf of OMB, that is where we are. But, if anything, the situation has deteriorated since then from our standpoint and the severe damage could well be disastrous damage to the industry.

As best I can make out from a hurried reading of the statement, a central premise is that there would be no forgiveness of interest. Just as Mr. Dempsey pointed out, if that is a central premise, obviously then the consensus package doesn't work and we would certainly acknowledge that.

That was one of the very key elements of that total package, but then the statement, as I read it, uses that assumption of no interest forgiveness and ratchets it up by going on to say that there should have been, in addition to the interest assumptions that were used for the projections, a more "prudent", using their term, interest assumption. Although that is unstated, what that interest assumption should have been in their view is not articulated in the statement.

But then it says, using that more prudent interest assumption—what is projected by the Committee to be a soundly financed system instead turns out to be one that is grossly underfinanced and in deficit.

We don't know the numbers that they used, but I think the facts will turn out to be that if interest is forgiven, as the consensus package calls for, then the system is not very sensitive to interest assumptions. It is only on the strength of the premise that OMB advances that there not be interest forgiveness that they are able to come up with these doomsday projections, as they do in this statement.

Another point that I think ought to be put into perspective is one that has been mentioned today and appears in the OMB statement. That is that in 19 of the last 24 years, the RUIA system has been "insolvent," putting that term in quotes, because that is the term that is used. I would draw back from that characterization. It is a fact that the RUIA system has borrowed from railroad retirement in those years, but it has repaid those loans for every year except these very recent years when the financial disaster was visited on the system because of the recession and drop of railroad employment by some 25 percent in the space of 18 months.

So the facts are that there has been borrowing. There has not been insolvency. In fact, the system has worked over the many years.

As you know, we on the management side of the aisle prefer a transfer to the Federal/State system in principle. But we have tried and will continue to try to look at the entire situation as objectively as we can and would hope that others would as well and we think it is really not appropriate to characterize as an unbroken string of insolvencies what have in fact been borrowings.

That is the reason the borrowing authority is there, just as with more than one State, they have borrowed consistently over the years. Then just one final point and I am sure there will be many more when we do have a chance to digest this thoroughly and Mr. Dempsey touched on this too.

I think OMB's position is that the program, consensus package, and the proposed transfer to the Federal/State system as we, management, have suggested, relies heavily on borrowing, transferring assets, taking money from the railroad retirement system.

As Bill has said, that system is funded entirely by railroad and railroad contributions. What is proposed in the committee's report and recommendations with respect to the borrowing or forgiveness of interest does nothing to the Federal Government or to the Federal deficit.

I would add to that there are no people more dedicated to the soundness of the system than the railroad management people on the committee and the people we represent.

We recognize that if, because of forgiveness of interest or for some other reason in the future, the system gets into trouble again, we will try to step forward again to ensure that the system will continue to be solvent. So this was not done as some reckless means of putting a band-aid on another problem in full knowledge of what the realistic projections show for railroad retirement as well as RUIA. And we stand behind it foursquare. I guess that is all I can say on the subject.

[The prepared joint statement follows:]

JOINT STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS, AND CHARLES I. HOPKINS, JR., CHAIRMAN, NATIONAL RAILROAD LABOR CONFERENCE

William H. Dempsey is the President of the Association of American Railroads, and Charles I. Hopkins, Jr. is the Chairman of the National Railway Labor Conference. The AAR represents almost all of the nation's railroads in a wide variety of matters, including legislative matters, that concern the railroad industry. The NRLC represents almost all of the nation's railroads in national collective bargaining with unions representing their employees and in regard to other matters concerning labor-management relations in the railroad industry, including negotiations with the unions in regard to recommendations to be made to the Congress in regard to the Railroad Unemployment Insurance Act. Thus, we are the principal officers of the two railroad associations that traditionally are directly concerned with unemployment compensation legislation affecting the railroad industry.

We also are the two management members of the Railroad Unemployment Compensation Committee established by Section 504 of the Railroad Retirement Solvency Act (P.L. 98-76) to review the railroad unemployment and sickness insurance systems provided by the RUI Act and to submit a report of recommendations to the Congress. The fact that we personally served on that Committee, and attended all or almost all of its numerous meetings, reflects the importance which the railroad industry places upon legislation restructuring unemployment compensation in that industry. We appreciate this opportunity to appear before the subcommittee on behalf of our associations and their member railroads.

The final Report of the Railroad Unemployment Compensation Committee, dated June 29, 1984, has been submitted to the Congress. We see no need to discuss in detail at this time the recommendations made in that Report, although we will be pleased to respond to any questions about those recommendations. We will outline the basic position of railroad management and the concerns which we believe any legislation enacted by the Congress should reflect

Before doing so, however, we express our deep appreciation for the services of Dr. Robert J. Myers, the public member and Chairman of the Railroad Unemployment Compensation Committee. While we did not always agree with Dr. Myers, we have no doubt of his impartiality, fairness, expert knowledge, and unfailing patience and courtesy. It was also a pleasure to work with the labor members of the Committee—Dick Kilroy and John Sytsma—and the Committee as a whole received extensive technical assistance from the Railroad Retirement Board and its staff.

Among other things, the Congress directed the Committee to consider "alternatives to the railroad unemployment insurance system such as covering railroad employees under the Federal-State unemployment compensation system." It appeared to the Committee that the only practicable alternative to the RUI system is coverage of the railroad industry by the federal/state UC system. As the Committee stated on page 3-1 of its April 1, 1984 interim Report to the Congress—". . . the approach of the Committee will be to examine two alternatives—(1) maintaining the RUI program in its present independent form and (2) merging the RUI program into the state program, with special emphasis on the necessary transitional provisions. The Committee will develop what it believes to be the best way to implement each of these two concepts before passing judgment on its final recommendations."

A consensus agreement was reached by all members of the Committee in regard to "the best way to implement" continuation of an independent RUI system. The labor members of the Committee declined to participate in formulating "the best way to implement" a transition to coverage by the federal/state UC system. The management members, however, reached agreement with the Chairman on principles to be recommended in that regard.

As we have noted and as this Subcommittee of course is aware from the Report, the Chairman of the Committee joined the labor members in recommending that the Congress continue the independent RUI system as revised in accordance with the consensus package. We favored coverage of the railroad industry by the federal/state UC system if that is done through fair and equitable transitional provisions and does not impose undue burdens upon the railroads.

In agreeing to a consensus package concerning the best way to continue a revised RUI system, the members of the Committee necessarily had to compromise their individual views. While we individually believe that the RUI system could be further improved if it is continued, we are satisfied that the consensus recommendations would result in a financially viable system that the railroads can live with if necessary.

Actuarial predictions of the future can never be certain, but the Committee utilized pessimistic (or worse) assumptions in regard to future railroad employment in an effort to minimize the chances of erring on the the side of over optimism. Of the three employment assumptions utilized, Assumption I is that employment will decline by an average of one percent per year through the year 2000, Assumption III posits an average decline of three percent per year, and Assumption III posits an average decline of five percent per year. All three Assumptions have built-in periods of recession and recovery which, while necessarily arbitrary as to timing and extent, are more realistic for purposes of estimating the costs of unemployment benefits than assuming a level rate of decline over a period of some 15 years. Although the Committee's "best guess" is the actual employment experience will be somewhere between Assumption I and Assumption II, it utilized Assumption II as a working guide, and Assumption III afforded some indication of how the system would fare in the event of catastrophic economic conditions.

The actuaries estimate that the RUI system would be in sound financial condition even under Assumption III conditions if the consensus package should be enacted. This would be achieved through a combination of (1) modifications in employee benefits provisions, (2) increases in maximum employer contributions or taxes, (3) improved administration of the system (including experience rating), and (4) a one-time federal payment intended to provide some recompense for past discriminatory treatment of the system as compared to the state systems. The consensus package also provides for repayment of the system's debt to the Railroad Retirement Account by the end of the year 2000. All interested parties—the railroads, their employees, and the federal government—would make some sacrifices, although most of the burden of placing the RUI system on a sound financial basis would be borne by the railroads and their employees—particularly by the railroads.

Before elaborating upon those essential elements of the consensus package, we want to emphasize as strongly as we can that it is an integrated package each element of which is vital to the consensus agreement. If the Subcommittee should recommend continuation of an independent RUI system, we urge that it also recommend adoption of the entire consensus package without significant change.

It is estimated that the recommended increase in the base year service and creditable compensation required to qualify for benefits in a benefit year will result in total savings (under Employment Assumption II) of $242 million, and that the recommended imposition of what in effect will be a three-day waiting period will result in total savings of $135 million, for an overall total from those two changes (after allowing for some overlap) of $370 million by the end of the year 2000. Maximum daily benefits payable would be increased from $25 to $27 as of July 1, 1985, and the $25 amount would be indexed for future benefit years (commencing July 1, 1987). However, a $27 maximum daily benefit amount (equivalent to a $135 weekly benefit) would be less than the maximum benefit payable by most of the state unemployment compensation systems, and restricting the indexing to about two-thirds of the rate of increase in national average wages will help contain future increases to reasonable levels.

Insofar as the railroads are concerned, the Congress already has enacted interim measures that increased normal employer contributions by 50% through an increase in monthly maximum taxable compensation from $400 to $600 and added a temporary repayment tax that, unless replaced, will be in effect from July 1, 1986 through September 30, 1990. As the Subcommittee is aware, those interim measures were included in the Railroad Retirement Solvency Act of 1983 primarily at the insistence of the Committee on Ways and Means.

The consensus package recommendations would further increase the unemployment tax burden imposed upon the railroads. The maximum contribution rate would be increased from 8% to 12% of taxable compensation, and the $600 monthly limit on taxable compensation would be indexed in a manner comparable to the indexing of maximum benefit amounts. The existing repayment tax would be replaced by a revised repayment tax, under the RUI Act, as a rate calculated to assure repayment by the end of the year 2000 of the principal amount owed by the RUI Account to the Railroad Retirement Account. When compared with the RUI Act prior to last year's interim legislation, it is estimated that in the 1984-2000 period, normal railroad contributions will increase by almost $1.5 billion from a total of

$2.15 billion to a total of $3.646 billion if the consensus package should be enacted. The repayment tax would add another $574.6 million for an overall total increase of approximately $2.071 billion in the unemployment taxes paid by employers.

Subject to the 12% maximum, the normal contributions (excluding the repayment tax) payable by particular employers would be experience rated and thus would vary in general accordance with the extent of unemployment incurred by the employer's own work force. This should encourage employers both to keep their employees working insofar as otherwise is feasible and to monitor benefit claims by their employees so as to contest claims that appear to be unjustified. Base-year employers would be entitled to notice of claims for benefits and to participate in the claims process, including appeals to the Board and to the courts, so as to make such monitoring possible, although payment of benefits initially allowed would not be withheld pending appeals. Both those employer rights and experience rating would be new to the RUI system, but they are common features of the state UC systems.

There would be a one-time federal payment in the amount of $135 million to the RUI Account, on October 1, 1985. As stated in the Report (at page 3-21), that payment is intended "to equalize for past preferential treatment given to the state UI systems" as compared to the RUI system. For example, the state systems are permitted to borrow through the Federal Unemployment Account from the General Fund and no interest was or is payable on such borrowing prior to April 1, 1982, and borrowings by the Extended Unemployment Compensation Account from the General Fund to finance the federal share of the cost of extended benefits payable by the state systems always have been and now are interest free; while, in contrast, the RUI Account could borrow only from the Railroad Retirement Account—funded from railroad retirement taxes payable by the railroads and their employees—and such borrowings in the past always have been repayable with interest.

The consensus package would enable the RUI Account, after the termination on September 30, 1985 of its current authority to borrow from the Railroad Retirement Account, to borrow from the General Fund when essential to do so for the payment of benefits. The borrowed amounts would be repayable with interest as soon as possible. This recommended borrowing authority would be similar to that afforded the state systems through the Federal Unemployment Account, including the interest required to be paid, except for stronger warranties of quick repayment. Subject to the overall 12% maximum after experience rating begins surcharges would be imposed upon each employer if the balance in the RUI Account falls below certain specified limits. A surcharge of 3.5% would be imposed if the RUI Account has not repaid with interest loans from the General Fund by the end of a fiscal year. This is a much more severe penalty than is imposed upon employers covered by the state systems if borrowings from the Federal Unemployment Account are not repaid in a timely manner, and should assure rapid repayment of any loans.

Because the level of unemployment and thus the amount of unemployment benefits payable can be quite volatile over a period of time, some source of borrowing authority is virtually essential if timely benefit payments are to be assured without unreasonably large accumulations of reserves or rapid fluctuations in applicable tax rates. However, it is estimated that no use of the recommended borrowing authority would occur through the end of the year 2000 under Employment Assumptions I and II. Even under Employment Assumption III, loans would not be necessary except for small amounts (less than $15 million in total) in 1987 and 1988 and those would be repaid in 1989. Moreover, that assumes that experience rating will not be applicable until 1990, while we now contemplate that experience rating can be introduced on a partial basis after one full calendar year has elapsed following enactment of the necessary statutory amendments.

We note that the Committee Report, and thus the consensus package recommendations, did not deal with "whether or not RUI unemployment benefits should be paid during periods of strikes" as it "is confined to recommendations for financially sound unemployment and sickness insurance systems for the future" (Report, at 2-7). As the Report also notes, this "is a controversial subject between labor and management" (ibid). Under the RUIA as it now reads, participants in a legal strike are paid unemployment benefits after a 14-day waiting period. Such benefits are not restricted to individuals who have lost their jobs through no fault of their own, and thus in management's view are not "unemployment" benefits in the usual sense of that term. Rather, such strike-related benefits place the power of the federal government behind one side to a labor-management economic dispute, and require the railroads in effect to support strikes against themselves.

While the consensus package would place the RUI system on a sound financial basis, if the Congress elects to continue an independent RUI system, as the employer members of the Railroad Unemployment Compensation Committee we favored placing the railroad industry under the coverage of the federal/state UC system if that can be done in a manner that is fair and equitable and does not impose an undue financial burden upon the railroads.

The railroad industry initially was covered by the federal/state system, along with other industries. The enactment of the RUI Act in 1938 establishing an independent RUI system, commencing July 1, 1939, was an aspect of a policy prevalent at that time of subjecting the railroad industry to special legislation rather than to federal legislation applicable to industries generally. The railroads opposed enactment of the RUI Act at the time, and experience under that Act has confirmed our view that its enactment was a mistake.

The overall effect of the policy of subjecting the railroad industry to special legislation treatment has been disastrous to the railroads and to the public interest in a healthy railroad transportation system. The railroads have been saddled with statutorily-fixed expenses and burdens beyond those imposed on other industries, including competitors, and thus the railroads have been deprived of the flexibility necessary to compete successfully with motor carriers and other transportation industries. The start made by the Staggers Act of 1980 in dismantling this structure of overregulation and specialized legislation would be furthered by termination of the RUI system and coverage of the railroad industry by the federal/state UC system.

To give one example in the area of unemployment compensation of the kind of discriminatory treatment we are talking about, the Temporary Unemployment Compensation Act of 1958 (P.L. 85-441) enacted a temporary program providing extended unemployment benefits to individuals whose entitlement to normal unemployment benefits under the state systems had been exhausted. The states were reimbursed for the costs of those extended benefits out of the General Fund, which eventually was repaid—without interest—from the federal share of the FUTA tax. 72 Stat. 171-196, as amended, 73 Stat. 14-15, 77 Stat. 306. A bill that, as reported by the House Interstate and Foreign Commerce Committee, among other things would have established a similar temporary program of extended benefits under the RUI Act, was amended on the floor of the House and enacted as P.L. 86-28 (over the opposition of the railroads) so as to go much further. The temporary program was limited to employees with less than 10 years of railroad service. A permanent program of extended benefits was provided for employees with 10 or more years of railroad service that has continued to this day. And while P.L. 86-28 also enacted the authority of the RUI Account to borrow from the Railroad Retirement Account, interest was payable on those borrowings and no assistance of any kind was provided from the General Fund. 73 Stat. 30-33. See 45 U.S.C. § 352(c). H. Rept. No. 243, 86th Cong., 1st Sess. (1959), at 39-40.

Perhaps it can be argued that a permanent program of extended unemployment benefits is preferable to temporary programs limited to times of high unemployment such as are now provided for other industries through the Federal-State Extended Unemployment Compensation Act of 1970. Similar disputes might be had about the merits of other differences between the RUI system and the federal/state system. But, we do not perceive any justification other than tradition for subjecting the railroads and their employees to a different statutory regime than that applicable to other industries insofar as unemployment compensation is concerned. Whatever the arguments in regard to the merits of various aspects of an unemployment compensation system may be, they are not arguments which are peculiar to the railroad industry but rather have general applicability.

Fortunately, the problems of terminating the separate railroad system are not intractable. Eligibility for unemployment benefits under the RUIA generally is limited to a benefit year (running from July 1 to June 30) for employees who qualify through railroad service and compensation in the prior base year (a calendar year). A changeover to coverage by the federal/state system as of a July 1 could be achieved with little or no disruption in the payment of unemployment benefits to qualified individuals, if a means is provided for basing eligibility during a transitional period at least in part upon railroad service prior to the effective date of coverage by the state systems.

Moreover, a changeover at this time to coverage by the federal/state UC system should be advantageous to the great bulk of unemployed railroad workers. As of January 1, 1984, the average benefit payable by the state UC systems, weighted by railroad employment in the state, was $160.70 per week as compared to $125 per week under the RUI system (which initially would increase to $135 if the consensus package were enacted). To be sure, qualification requirements and other aspects of the state systems often are stricter than generally comparable provisions of the RUI system. For example, the payment of benefits on a weekly rather than a daily basis, and the requirement of a full week's waiting period, reduce the benefits payable by the state systems as compared to the RUI system. But those and other more rigorous state requirements generally have the purpose and effect of restricting unemployment benefits to those truly deserving such assistance.

The railroads stand ready to work with the Congress in developing legislation that will merge the RUI system into the federal/state UC system in a manner that is as smooth and undistruptive as possible. Our overriding concern, however, is that a changeover to coverage by the federal/state systems not be made in such a way as to burden the railroads with increased unemployment compensation taxation. The railroads are not responsible for the existence of a separate RUI system and they cannot fairly be said to be responsible for the current financial difficulties of that system. Indeed, the railroads more reasonably can be said to be the victims rather than the villains.

The reduction in average railroad employment from 503,000 in 1981 to 398,000 in 1983, or more than 20%, reflected the tremendous impact of the 1981-83 recession upon the railroads plus the delayed unemployment effects (through federal legislation) of the prior bankruptcies of the Milwaukee and Rock Island railroads and of the predecessors of Conrail. The railroads now pay contributions under the RUI Act at the rate of 8% of monthly compensation up to $600 (i.e., up to $7200 per year), of which about 5.7% is attributable to unemployment benefits and the other 2.3% to sickness benefits. In comparison, the current FUTA tax rate is 3.5% applicable to annual compensation up to $7,000. In general, the railroads have paid unemployment contributions or taxes larger than those paid by the average employer under the federal/state system. The railroads should not be further penalized by placing them under the federal/state UC system in a manner that, at least for a substantial period of time, would be more costly to them than continued coverage by the RUI system.

Our concerns in this regard have been exacerbated by the bill transmitted to the Congress by the Secretary of Labor on behalf of the Adminstration. Under that bill, the entire financial burden of the transition would be placed upon the railroads. They would pay full FUTA and state UC taxes from the effective date of state coverage, including the portions of those taxes utilized in repaying borrowings prior to coverage of the railroad industry. Yet, the cost of unemployment benefits payable by the state systems to railroad workers during a transitional period would be partially funded out ot the RUI Account, and unemployment benefits would continue to be paid directly by the RUI system in some circumstances for a period of at least six and perhaps 18 months (the provisions of the Administration bill in this regard are ambiguous). And, although the railroads would be called upon to assist in the repayment of loans made to the federal/state system when it was not applicable to the railroad industry, the railroads alone would be required to repay with interest the loans made to the RUI Account by the Railroad Retirement Account.

In short, for several years until some time in the 1990s, the railroads would pay the following taxes: (1) the maximum contributions now required by the RUI Act, (2) the repayment tax enacted last year, (3) the full FUTA tax applicable to other employers, and (4) full state UC taxes or contributions applicable to other employers. These aspects of the Administration bill not only are punitive and completely unreasonable, in our view, but they also conflict with what we understood to be the Administration's primary reason for urging that the railroad industry be covered by the federal/state UC system. Both during the consideration last year of the legislation that led to the Railroad Retirement Solvency Act of 1983, and in appearances this year before the Railroad Unemployment Compensation Committee, representatives of OMB expressed the view that termination of the RUI system is necessary because the railroad industry no longer can afford the cost of supporting an independent unemployment compensation system. The remedy for that problem certainly is not legislation that for years could approximately double the cost to the railroad industry of funding unemployment benefits.

Consequently, the railroads strongly oppose the Administration's bill as it now reads. The consensus package recommended by the majority of the Railroad Unemployment Compensation Committee is far preferable to the railroads, even though we prefer coverage by the federal/state UC system in principle. We have had discussions with OMB and we expect to make further effort to attempt to agree upon a program that would bring the railroad industry under the coverage of the federal/state system in a manner that would not increase the anticipated cost to the industry of unemployment compensation.

In the meantime, Chapter 4 of the Report of the Railroad Unemployment Compensation Committee contains recommendations for a transition to coverage of the railroad industry by the federal/state system that at least provide a good starting point. Apart from a $200 million federal payment, the costs of the transition would be borne by the railroads. Such a payment is justified not only as some recompense for the cost of past discrimination against the RUI system and for assumption by the railroads of a share in the burden of repaying prior debts of the federal/state system, but also by precedent and by necessity if an affordable transition is to be provided. Sickness benefits would continue to be administered by the Railroad Retirement Board under the RUI Act as revised (with respect to those benefits) in general accordance with the recommendations of the consensus package. However, the contributions necessary to fund sickness benefits would be adjusted quarterly at a level sufficient to pay the costs of such benefits, and no borrowing authority from any source would be provided. The is possible in regard to sickness benefits, even though not feasible in regard to unemployment benefits, because the incidence of sickness (unlike the incidence of unemployment) remains relatively stable from year to year.

In providing for the establishment of the Railroad Unemployment Compensation Committee, the Congress specified that its recommendations should "contain adjustments in contributions and benefits which will enable the railroad unemployment compensation system to repay all loans from the Railroad Retirement Account before December 31, 2000." The Committee has recommended a similar approach to such repayment regardless of whether the RUI system is continued or is terminated in favor of coverage by the federal/state UC system. The principal of the loans would be repaid through a separate repayment tax at a rate, which would be applicable to taxable compensation under the RUI Act, sufficient to assure such repayment by the end of the year 2000. The rate as initially fixed would be adjusted triennially so as to keep it on target, and in any event the tax would continue until repayment is completed. Interest would be forgiven, and the existing jeopardize the financial soundness of the Railroad Retirement Account, and imposes as much in the way of additional taxes upon the railroads as they reasonably can be expected to bear.

In conclusion, we want to stress that while the railroads favor the principle of coverage by the federal/state UC system, they cannot support and will vigorously oppose legislation that would achieve that desirable goal in a manner that would burden the railroads with unemployment taxes far greater than will be payable if the RUI system is continued as revised in accordance with the consensus package. After having suffered for years under a generally higher burden of unemployment taxation by reason of coverage under the RUI system instead of the federal/state system, the railroads cannot fairly be expected to undergo another period of years in which a still higher burden of unemployment taxation will be imposed by reason of coverage under the federal/state system.

We have initiated efforts to obtain more refined estimate of the cost to the railroads of federal/state coverage than were available to the Railroad Unemployment Compensation Committee. In the meantime, it is entirely clear that the expense to the railroads of coverage by the federal/state system would be exorbitant in the absence of a substantial federal transition payment and of a resolution of the problem of the debt owed to the Railroad Retirement Account which does not excessively burden the railroads with repayment taxes over and beyond noral unemployment taxes. The Administration bill as it now reads does not include either feature and plainly is unacceptable to the railroads. We are hopeful that satisfactory legislation can be worked out with the Administration and with the Congress. But if not, the railroads support continuance of an independent RUI system in accordance with the recommendations of the Railroad Unemployment Compensation Commission.

Chairman FORD. Thank you, Mr. Hopkins.

At this time the Chair would recognize Mr. Kilroy.

STATEMENT OF RICHARD I. KILROY, INTERNATIONAL PRESIDENT, BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS & STATION EMPLOYEES, AND ON BEHALF OF JOHN F. SYTSMA, BOTH LABOR MEMBERS, RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Mr. KILROY. Thank you, Mr. Chairman.

As the last member of the Committee to testify, you wonder what else is left to say now that they have touched on most items covered in the report.

Let me say this. We have prepared a statement which I will ask that it be put into the record.

Chairman FORD. That statement will be put into the record.

Mr. KILROY. I will not read that record, but will make some highlights and comments I want to make with respect to the decision before the committee. We would like to assist management in avoiding what I have heard here is the catastrophe of going to the Federal-State system. We oppose it for the reason stated in chapter 6.

The system has worked well, exceptionally well for 45 years, with one exception due to an 18-month period of July 1, 1981, to January 1, 1983, when we had a 25-percent reduction in employment, that contributed to our problems under railroad retirement, which were solved with the 1983 act, Solvency Act, and at that time both management and labor proposed the establishment of the very committee that is reporting to this congressional committee today.

The five-man committee is unanimous on their evaluation that the consensus package is workable and is fair, as we have presented it. We oppose the Federal-State system, as we have stated in our report, and we emphatically say that labor is not in favor of forgiving the interest on the money owed to railroad retirement, if that retirement system is going to be broken, or the unemployment system is going to be broken up and parceled out to the States.

And we believe that that is a compromise and a contribution on the part of the employees as well as management that pays into that fund, but it is an industry system paid for by the industry totally.

We do—in answer to a question raised this morning by one member of the committee about whether we bargain collectively on railroad unemployment—the answer is probably both yes and no. Certainly the document before you is as close as you can come to two sides, management and labor, with the good help of Dr. Myers, who I want to commend for his assistance and support on the consensus package. But that is as close as you can get, and it does represent compromises, certainly on our part, to maintain a separate system as we have for 45 years.

We do also have working rules on the various railroad systems that cover as high as 13, 14, perhaps even more States, and we bargain nationally on wages and rules on health and welfare. We believe the States, as stated in previous testimony, already burdened by some unemployment problems, and none that I have talked to, none of the State representatives, or governments, or anybody else has said that they want to take over the railroad unemployment system.

We believe that the future costs to the industry are most uncertain in each of the State systems, and a lot more certain under a separate system as we have had in the past.

We have made compromises, as has been stated, to reduce the cost to the employers by certain changes in eligibility requirements and reduction in benefits. It was stated by Mr. Dempsey that he didn't see why in New York you couldn't get a higher benefit than you got in Mississippi, but overall, the average payment of benefits to railroad workers, except for the last 2 years, has generally exceeded the average under the State plans combined.

It has only been in recent years that States have raised the amounts of benefits that exceeded generally what is paid under RUIA, and of course we had not touched ours for the last 8 years, and we are proposing a gradual increase based on an indexing provision with those benefits. So, with those few comments, we would urge that your committee give consideration and support the consensus proposal that the committee has unanimously agreed is workable and fair to all concerned.

Thank you, Mr. Chairman.

[The prepared joint statement follows:]

JOINT STATEMENT OF RICHARD I. KILROY AND JOHN F. SYTSMA, RAILROAD LABOR MEMBERS, RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Mr. Chairman and Members of the Subcommittee, as the representatives of Railroad Labor on the Railroad Unemployment Compensation Committee established by Section 504 of the Railroad Retirement Solvency Act of 1983, Public Law 98-76, Richard I. Kilroy and John F. Sytsma submit the following comments and statement of position.

We do not intend in this statement to review the history of the railroad unemployment insurance system or the events leading to the enactment of Section 504 and the creation of the RUC Committee on which we have the honor to serve. The facts regarding those events are adequately set forth in our Committee's Report and, indeed, are well known to all on this Subcommittee. We, as the Labor Members of the RUC Committee, do wish to emphasize to this Subcommittee and to the Congress that the railroad unemployment insurance system worked in a completely successful manner from 1939 to 1981, through all the severe reductions in railroad employment as the work force in that industry shrank from more than 1.3 million employees during and after World War II to less than 500,000. It worked until incredibly precipitous reductions in employment occurred in the railroad industry between July 1, 1981 and January 1, 1983, when the number of employees was reduced from 514,000 to 388,000; a drop of 25% in 18 months. No system of unemployment compensation could have withstood that strain.

The numbers of unemployed in the industry became just too great over too short a period of time and the system could not meet their just demands. A severe problem was created for which a solution had to be found.

At the direction of the Congress and with the invaluable assistance of the Chairman and Public Member of our Committee, Dr. Robert J. Myers, and the members and staff of the Railroad Retirement Board, we have found a workable solution to that problem. That solution, which requires sacrifices from all involved, is set forth in the Report as one which all members of the Committee agree will be both equitable and viable.

The Report of the RUC Committee recommends the retention of the present system with certain specified modifications. All members of the RUC Committee are in agreement that the system modified as proposed in our Report would be fair and will work.

The RUC Committee is also unanimous in its recommendation to this Subcommittee and the Congress to reject the proposed bill submitted by the Administration as a solution to the problem confronting us. The reasons for our recommending rejection of that proposal are basically the same as those upon which the Labor Members based their recommendation to this Subcommittee and the Congress to reject the railroads' alternative Federal/State unemployment compensation program proposal also set forth in the RUC Committee Report.

The Railroad Members of the RUC Committee in a minority report recommend as a first choice a Federal/State plan of unemployment compensation which the Chairman and Public Member of the Committee rejects as a first choice and which the Labor Members reject in its entirety for the reasons set forth in Chapter 6 of the Report.

We emphasize here our conviction that if the Congress should determine upon a Federal/State method of unemployment insurance, the $200 million required by the Railroad Member's Plan and any costs which exceed the contributions to the plan not be derived from further loans from the Railroad Retirement Account and, most importantly, that there be no forgiveness of interest on loans made to the Unemployment Insurance Account as such forgiveness represents in part a contribution by employees to a debt incurred by the industry.

It would be extremely unfair to force the employees to contribute to the establishment of a plan which destroys their unemployment compensation system; a system which, with one exception resulting from an aberrant reduction in employment covering a few months, has performed successfully for 45 years.

We believe it exceedingly inequitable to the railroad employees of this nation to eradicate a system which has worked well for 45 years unless there is no viable alternative to its abolishment. The RUC Committee has presented that viable alternative and we vigorously support and urge your adoption of it.

With equal vigor we oppose adoption of any Federal/State system of unemployment compensation for railroad employees. We understand we are not alone in that opposition. It is our information that many states are very concerned about having the railroad industry's employment problems added to the enormous difficulties under which their unemployment systems now labor.

The modified railroad unemployment compensation system presented in the Report of the RUC Committee is the result of painful and painstaking efforts by all members of this Committee. It has the unqualified endorsement of the Chairman of this Committee and its Labor Members; and it is supported by every member of this Committee as a fair and viable system. It preserves to the railroad employees the unemployment compensation system that they have enjoyed for nearly half a century. We are convinced that no sound argument can now be made for destroying that system in favor of a Federal/State system for railroad unemployment. We urge your favorable consideration of the Report of the Committee and the enactment by Congress of a bill that embodies those recommendations of the Report of the RUC Committee which are viewed by all of its members as financially viable, fair to all and administratively workable.

Chairman FORD. Thank you, Mr. Kilroy. Mr. Stark.

Mr. STARK. Thank you, Mr. Chairman.

I want to thank the panel. I appreciate all the work that you have done, and I think I just have only a faint understanding of what you have gone through in arriving at a compromise or some kind of loose or tenuous consensus.

I would like at some point—and perhaps the labor members and the management members might like to submit this to me separately—I think that the labor members have, and possibly validly, a paranoia about their retirement system, and Congress taking away their Federal benefits.

I hear from my constituents, "don't let them close up our Railroad Retirement Board." I am sensitive. These are people who are not very sophisticated in the workings of these sorts of things, and I think in some of the reaction that I will be hearing at home, it is people concerned about things that may not really exist or may be blown somewhat out of proportion. I say this only as a preface to saying I would like to see some examples of how the rules work for, one, a person who is new to the railroad industry, and is therefore a younger person, two, someone without a lot of seniority, whose job security is good, and three, a person who worked for the railroads 20 or 30 years both at the higher skill level and at the lesser skilled levels.

What are the rules for qualification for unemployment benefits. What kind of job search do they have to go through as, say, compared to my State of California, and what are the benefits, in a couple of States, like Illinois and New York, and the costs?

I am pretty confident that management's confusion right now is over cost, and I would think they would opt—and I don't mean this as derogatory at all—for the least cost to management. I think right now you are a little confused as to which is the least costly, or you would be a little more positive as between the two. I only ask this because I am sure we will hear this. Labor has been used to dealing with another committee for their benefits over the years, and I can understand that. They are awfully nice guys over there, and we are mean and nasty here, so you probably would like to continue to deal with Chairman Florio instead of Chairman Ford, because he is tough, probably tougher than Mr. Florio.

People don't like change. I appreciate that. I appreciate Mr. Myers' skill in understanding this. Unfortunately, we may have to make the choice. I mean, the best of all worlds would be for you all to join hands and be unanimous, and then all I would have to do is vote against OMB, but I do that all the time, and your members would be happy and your stockholders would be happy. But if it doesn't come to that, we are going to have to make a choice on this committee, and as usually happens, it is never very clear. It is never just a nice dollars and cents choice, and it isn't just the choice—obviously if we go for the highest benefits in some areas we might be voting against what the unions want.

This information should help us, or at least me, understand how the system affects different workers. I think that my guess is that perhaps the rules are a little—I don't want to say looser, but more generous, and they are different. I understand you have people who can come on and off the system much more easily than perhaps they can in California, but that accrues to the benefit of management because you have learned to schedule and take the labor loads that way.

Hopefully, we won't have to make that decision, but as I say, as this goes along it would help me very much to know what the individual differences are to your members, to your employees. I don't get a real good feeling there. I get a feeling that people want to change, but half of that is I think they trust the labor leaders who speak for them more than they trust me, and probably a little bit more than they trust management.

I think we have to sort through that a little bit, so if you could submit some of that to us in whatever form you would like, it would be part of the record. I would appreciate it, and I would then urge you to continue your deliberations and bring this committee continued information, because it will be easier for us to move.

As you know, we don't have much to do with unemployment. We don't set the benefits in terms of the dollar amounts. That is done by the States. We really just collect the taxes. The States set the taxes and the rules, and so it isn't a matter of great profile and courage for us to have this come to us. We may be the ones that have to cast the deciding vote, and so the less emotion the better, which is understandable, and I don't mean to belittle that in this, because I am very sympathetic with people who are out of work.

But it is hard for me to vote for a system where somebody is saying that in 48 out of 50 States everybody is going to get higher benefits. I want to see the other side of that. Maybe there is something just in dollars, and it is hard for me to see everybody getting higher benefits and management saving any money. But I will get to that as I review the testimony a little more.

If you could prepare that for us it would help. I assume you are going to have more testimony on the management side after you have had a chance to review the administration's position.

Mr. **Dempsey**. Yes, we will. You are quite right, Congressman. It is not easy to make financial projections here. You start with something that might appear obvious, the average statement benefit weighted by railroad employment is about $160.70 as against $125 under the railroad system. That, obviously, would represent an increased significant cost to management.

Mr. **Stark**. Let me ask you this. Are you more comfortable in your particular company dealing with the present Railroad Retirement Board office, who administers unemployment? I imagine as a manager you want to keep your pool of skilled people around and to lay them off only temporarily, hoping you can get those people back so management gets some benefits out of a generous unemployment.

It keeps people from moving out of the area and they are available if you want to expand or open up again. Are you more uncomfortable with the railroad retirement people and/or the labor union running the unemployment, or would you rather deal with the States, or is it a matter of indifference?

Mr. **Dempsey**. I don't know that I can answer that question, because I am not really in that business. I can respond, however, this way. By saying that my board, the board of directors of the Association of American Railroads, voted unanimously in principle in favor of going to the Federal-State system, so whatever advantages they may see in terms of dealing with the Railroad Retirement Board and its existing offices they feel are counterbalanced in terms of what we would like to see as an ideal.

But you are quite right in saying that if that ideal is going to cost us anything like what the administration's program costs us, then we would much rather stay with the present system.

When you make these projections, it is also true, as you have indicated, Congressman, that there are more benefits paid, as Dick would be quick to point out, under the railroad retirement system. There are more liberal qualifications in some important respects, and therefore we estimate now that there are probably 25 percent more benefit days paid under the RUIA, so that is some offsetting consideration.

Then you have to make some guesses about what is going to happen over the next 15 or 20 years, because one feature that labor likes—and that from our perspective we think is pretty good, too, and that Dr. Myers was really the originator of—is the escalation in benefits, but it is not 100-percent escalation. It is two-thirds of the general wage increase escalation, and if the States go up at anything like 100 percent, that is a cost. It is a good thing for employees to know that that is automatic, but it is also a cost control mechanism.

As Mr. Hopkins said, we are looking at these figures very carefully, and I am not saying that we wouldn't be prepared to pay something for going to a Federal-State system as against what we have now, but I am saying one thing we are very clear on and that is that we are not prepared to pay what the administration wants us to pay or anything close to it. What we want to do is to continue to work with the administration and with the committee to see if something sensible can be worked out.

Mr. **Stark**. Mr. Kilroy, are there additions to this or conditions that could make the State system more desirable to you and your members?

Mr. **Kilroy**. We have looked at the various State plans, and you will see in the report there are comparisons in that report of the State plans versus RUIA. When you try to do that in 48 instances, you find some pluses here and a minus here. The overall value, as we have looked at it through the studies made by the Retirement Board, and how we evaluate that, and I think management tends to agree, that in the overall, the RUIA benefits are better if on a dollar and cents in some areas per day they would be less. Eligibility requirements, length of pay, or length of employment, or unemployment compensation, they vary in the States where they are constant under RUIA.

The biggest plus we see, not necessarily as a financial matter, is that all railroad employees are treated the same regardless of State, et cetera. They know where to go. They go to the Retirement Board to get their information. They depend on it. We can always go to that board and say, yes, we have got *x* number of employees when we are dealing with all of our projections.

I might add, if you recall under the Solvency Act, the projections for 1984 for employment averaged around 370,000 for the first 6 months of 1984. They actully averaged 397,000, and at that time were 410,000, so that drastic reduction we had in 1981 up through 1982, at least that part is over, not that, God forbid, it would happen again. I guess it could, but let's hope it never will. It is the worst one we had since 1929, and hopefully we will never see it again.

The system is well able to take care of itself under anybody's guess as to the projections for the future, and we are perfectly willing to give you examples, et cetera, as you have requested, and I think you will find some, maybe not examples but at least comparisons.

Quite obviously, if we thought the Federal-State system provided better benefits, as labor members we would readily go that way, notwithstanding the general reluctance to change. But that would not stop us, if that were the way to go, and some members could look at a State and say, "Well, look what they pay versus what you pay."

But then when you say, "Yes, but under these conditions you might not even get benefits," then you can say, "Wait a minute, I don't want that."

So, to keep it reasonable, we have concluded, as we did with the consensus package, made some concessions to take some of the financial burden off of the industry, to keep their tax down as much as could be possible without doing total damage to the system, and still maintaining the general continuity of the benefits, and we believe as a consensus package, while it perhaps is confusing to the committee as to why we really have here instead of one choice three choices, I think the one obvious choice is the consensus package, because it is a consensus, whereas the change in the Federal-State system is not a consensus at all.

Three members, or at least two, are opposed to it entirely, and the neutral, or public, member is simply only supporting it in the event that the other was not acceptable, but he is in favor of continuing the system under the modified conditions. So we are glad to supply those examples.

Mr. STARK. I thank the committee.

Chairman FORD. Mr. Campbell.

Mr. CAMPBELL. Thank you, Mr. Chairman.

Two or three of the questions I had you have addressed. I would like to pursue a few that we have gotten out of the report. I am interested that you are very adamant about maintaining a separate unemployment system, and yet this report recommends really a much larger reliance on the Federal Government.

You call for $135 million in grants. You call for various quarterly transfers of tax receipts, and the ability to borrow from the general fund just like a State, and yet you don't want to go to a State system. I find that that is somewhat of a contradiction of independence, and yet a move to the Federal Government.

Is it not inconsistent to recommend such a system, when you are asking for more Government involvement? I would just like to hear you address that. Everybody talked about remaining independent and what you wanted to do, and then you are recommending all the additional Federal involvement. Could you address that?

Mr. KILROY. Yes. Quite obviously, one very important item to be considered is the fact that under existing law, borrowing authority ceases in 1985 from the railroad retirement fund. The experience we had, remote as it was, of the 25 percent loss in that heavy borrowing from the fund contributed to a problem in that fund, and so we wanted to avoid that.

Borrowing from the Federal fund, as any other State, and paying back the interest we think is a fair solution. We would be no different than if we were just another State, we would be borrowing money and paying it back.

The report shows clearly that that money can be paid back, if any borrowing was needed, and possibly how much, so I don't believe there is really any inconsistency in maintaining the system, but there has to be some place to go to borrow money in a shortfall, a temporary shortfall, to keep the system solvent. You couldn't leave it just that if it ran out there was insufficient money, there would be no benefits paid. We would have to do something at that time. So we don't believe, from labor's viewpoint, that that is inconsistent with maintaining a separate plan.

The cost to the Federal Government of $135 million was explained by Dr. Myers. We agree with that. We also point out that the management proposal wants $200 million from the Federal Government, so ours is considerably less; ours is less cost to the Federal Government. The consensus plan labor supports.

Mr. CAMPBELL. I understand what you are saying about having a pool to borrow from. But what bothers me, as you are sitting here on one side talking about borrowing money and paying it back is that this subcommittee has heard a number of States come before us and ask to be forgiven their interest, and in this report you are telling us you want to be forgiven the interest owed to the retirement fund. I have real problems with that.

We have not shown any inclination to forgive the interest on State loans, in the subcommittee nor the full committee. As a matter of fact, a number of States have made some very, very tough adjustments in order to maintain their payments, the feeling being that we were dealing with a tough financial situation also. And they have made the adjustments.

I know that Mr. Pease's State, Ohio, has made some very, very tough, hard changes. Hard politically to make and hard otherwise, as has Illinois and other States. So I have a little problem with that you telling us you want to stay independent, and then you want to move and get more money from the Federal Government—a pool to borrow. And then, on the other side, you are telling us you want to be forgiven for the interest on the money you have already borrowed.

Mr. **Dempsey**. I would like to make an effort at a quick response.

When I ask you, Congressman Campbell, to forgive interest that I owe you, that is one thing; but when I say I would like to forgive interest that I owe myself, it seems to me that is quite a different thing.

Mr. **Campbell**. Would you tell the Federal Government that if the Social Security trust fund had to borrow money from the Medicare trust fund, which they have had to do, that they should not pay interest back?

Mr. **Dempsey**. Well, those are obviously matters of public policy.

Mr. **Campbell**. Borrowing from yourself, government to government.

Mr. **Dempsey**. But I come back to the only question that I think is relevant here, and that is whether the railroad retirement fund would be in any way impaired by the action that we are suggesting. You can approach it the other way, too. You can say, all right, what we will do is simply reduce the railroad retirement tax, and you accomplish exactly the same thing. So, in principle, it seems to me that that is all that is at stake here.

Now, as to the borrowing authority, it seems to me that goes with the rest of the package; that is to say, if the Congress decides that it wishes to maintain the existing system, then it seems to me inevitably the Congress has to decide that there has got to be borrowing authority, because you can't have an unemployment system without borrowing authority.

Mr. **Campbell**. I agree. But up until this point you are talking about the retirement system and unemployment—you are bargaining with yourself.

Mr. **Dempsey**. Right.

Mr. **Campbell**. Now you are bargaining with the taxpayer.

Mr. **Dempsey**. That is unquestionably true. But, on the other hand, if the Congress says in the end that it is the best public policy to have an independent railroad unemployment insurance system, then it seems to me it is only fair to treat that system as every other employer in effect in the United States is treated with respect to borrowing authority.

The $135 million—Dr. Myers can address this again. He has already. That is the best quantification that he and the other members of the committee can come to with respect to the way in which in effect the railroad system has been discriminated against in relation to the States, fundamentally by way of having to pay interest in situations where no other employers in the United States had to pay interest.

Mr. **Campbell**. Would you refresh my memory a minute? When we went into an independent system, did the railroads support going into that? Or was it imposed on them?

Mr. **Dempsey**. We opposed.

Mr. **Campbell**. You opposed?

Mr. **Dempsey**. We opposed. And we think that our position has turned out to be a correct one.

As I say, I am not taking issue with what you are saying as a matter of what ought to be the situation. We wish it had never happened to us. But now it has happened to us, and if there is to be some way out of this back in the direction that the administration proposes, it just has to be something different than what the administration has proposed.

Mr. **Campbell**. Let me ask you another question then on this loan repayment tax. I guess, Mr. Myers, you have addressed that first.

But tell me how, under current law, where you begin this 2 percent rate in July 1986—and on page 3-9 of your report you state that: "It is extremely unlikely this temporary tax will fully repay the principal of the loan, let alone the interest." And then you go on to recommend that this 2-percent repayment tax be replaced by a tax starting at 1.26 percent.

If a repayment of 2 percent is inadequate, how do you go back to a 1.26 and make it adequate?

Mr. **Myers**. Mr. Campbell, the answer to that question is that the 2-percent rate in present law, which as you have stated does gradually increase, is a temporary tax only. It only runs up through 1990, and then it stops. The tax in our consensus agreement is one that goes all the way up to the year 2000 and is adjusted from time to time, either up or down, to be certain that it will pay off, according to the best estimates available at the time, the principal of the loan at the end of the year 2000.

Mr. **Campbell**. Why would you drop back from the 2 percent? Why wouldn't you just extend it out to the necessary years and make it adjustable up or down instead of going back to a much lower starting point?

Mr. **Myers**. We had developed this basis on the premise that it would continue until the year 2000. What you are saying, from a technical standpoint could also have been done—that there could be a level rate until the loan is paid off, which would obviously occur sooner than the year 2000.

Mr. **Campbell**. Let me tell you what my concern is. My concern is your railroad retiree, or those that are going to retire. They are dependent on a retirement system that is dependent on earnings. On the one hand, we are talking about not paying interest. On the other hand, we are talking about now lowering the tax on the repayment, and that means they don't get the money back. So even if you forgave the interest, they will lose that period of investment and they lose that interest.

I wonder how long we are going to be able to keep going like that. You said, I believe, a while ago you have up to 410,000 employees now.

Mr. **Kilroy**. We do.

Mr. **Campbell**. You are up a little bit. But that is still down from the 530,000 or so 3 or 4 years ago. So what I am looking at in this retirement system—we are still dealing with those 530,000 that are going to be aging and going into retirement. And we are down to 14, and we are reducing taxes and forgiving interest. I know that you have trigger mechanisms and everything for people to keep the system from going bankrupt, but I do have some concern with it, that it might weaken it a little bit.

Mr. **Myers**. Mr. Campbell, if I might say, the repayment tax in our consensus package will pay more money to the retirement system than the repayment tax in present law. As I indicated, the repayment tax in present law is only applicable until 1990.

Mr. **Campbell**. I doubt that that is going to stay that way.

Mr. **Pease**. Would the gentleman yield?

Mr. **Campbell**. Certainly.

Mr. **Pease**. If the gentleman will yield, I think he makes an important point.

Mr. Myers, you say that the proposal you have will repay more than the present law. That would not be the case, though, I gather, if the present law were extended from 1990 to the year 2000.

Mr. **Myers**. You are correct about that, Mr. Pease.

Mr. **Dempsey**. Mr. Chairman, I am sorry, but I have just been told that I have got to go over to the Senate on another matter, and I wonder if I could be excused.

Chairman **Ford**. Well, that is up to you. There are some Members here, and, as chairman, I have not raised certain questions. But you are welcome to leave.

Mr. **Dempsey**. Mr. Hopkins is here. There is no one over there, unhappily, to take my place. Whereas, Mr. Hopkins is here and surely knows as much about this as I do.

Chairman **Ford**. Go right ahead.

Mr. **Dempsey**. If you ask me to stay, I will stay, Mr. Chairman.

Chairman **Ford**. No, I am not going to ask you to stay.

Mr. **Dempsey**. I am sorry.

Mr. **Campbell**. It is my time, and I don't mean to use it, but I have two more questions that I am concerned about.

Tax payments to the unemployment system are now calculated on a $600 a month wage base. In the States we have a set minimum base of $7,000. Of course, some of them are higher than that because of their outlays. They recognized it. You are really below the minimum because you pay it on a monthly basis, and it is $600 not on a front loaded basis of the first $7,000.

Did you explore what front-loading might do for you, because it does bring in the funds; it does let you earn off of them; and it does strengthen your system?

Mr. **Myers**. We did look at that.

Mr. **Campbell**. You want to be treated like a State. And now we are going to $600 a month instead of the first $7,000 or $7,200 earned. You are not frontloading. You are spreading it out.

Mr. **Myers**. We did look at that, Mr. Campbell. Of course, as you recognize, for the steady worker, a base of $600 a month brings in more than one of $7,000 a year. But, on the other hand, for part-time workers, it might not do so. As I recall the figures, the total income is about the same whether you have a base of $600 a month, at a rate of $7,200 a year, or you have an annual base of $7,000.

Mr. **Campbell**. I don't get that same figure by looking at the front-load payment. We front-load a lot of things. We frontload Social Security. We frontload unemployment. We frontload everything. And yet, you are going in a little different direction here; and yet you are talking about wanting to be treated like a State for borrowing purposes and everything else. But you want to go another direction on your payments. That seems relatively inconsistent.

Now, I wonder if there is any strong objection to the same type of system that we treat the States under?

Mr. **Hopkins**. May I offer a comment on that, sir?

The legislation last year raised the tax base 50 percent, from $400 a month to $600 a month.

Mr. **Campbell**. $400 was considerably lower than the States the whole time.

Mr. **Hopkins**. Yes; and now it is higher.

Mr. **Campbell**. I beg your pardon?

Mr. **Hopkins**. And now it is higher.

Mr. **Campbell**. I beg your pardon? The States are $7,000 a year minimum.

Mr. **Hopkins**. Some are higher than that; I recognize that.

Mr. **Campbell**. Yes.

Mr. **Hopkins**. But ours equates to $7,200 a year.

But the point I wanted to make was that we did address this in our consideration, and obviously we are all coming at this from somewhat different positions on the spectrum. Everybody is interested in achieving a compromise, and also everybody is interested in representing the interests of those people they are there to represent.

But the way we came out on it was, in addition to the increase of 50 percent of the base, it is to be indexed under the consensus package. So that, unlike what I understand to be typical of the States, it will rise automatically year by year, which will have the effect not only of front-loading it or tending to frontload it but that will be ongoing for the entire period of the projections; that is, through the year 2000.

Mr. **Campbell**. I have some more questions, but I have used my time. I will come back to them in just a minute.

Let me yield the time. Let someone else ask questions, Mr. Chairman.

Chairman **Ford**. Mr. Pease.

Mr. **Pease**. Thank you very much, Mr. Chairman. I have a number of questions, and I will try to ask them rapidly.

Mr. Myers, it seems to be the contention on the part of the administration that the interest rate figures used in your committee report were not prudent. You are a lifetime actuary. What do you have to say about that?

Mr. Myers. Mr. Pease, our estimates were made by the railroad retirement Board staff. I thought that the interest assumptions were reasonable, but that element is very difficult to predict for the future. When I looked at the assumptions—I did not make the actual calculations—I thought that they were reasonable.

Mr. Stark. It might help if you had a theologian on the part of your staff to predict the future. It would bring some interesting results.

Mr. Myers. Yes.

Mr. Pease. In other words, your position would be that you stand by the interest rate figures in your report, and you respectfully disagree with OMB?

Mr. Myers. Yes.

Mr. Pease. Thank you.

Now, your consensus report talks about forgiving interest owed to the pension fund by the Unemployment Compensation Program. And the point has been made a couple of times that there would be no cost to the Federal Government involved. Obviously, there is not in that one transaction.

Is there any secondary cost? In other words, if the pension fund is reduced in its own solvency or own financial health by the fact that the interest is forgiven, could that in a secondary way result in a cost to the Federal Treasury?

Mr. Myers. No, Mr. Pease, I do not believe so. Where the secondary cost arises is that the railroad retirement taxes, which are shared equally by employer and employee, could otherwise be a little smaller—all other things being equal—if that interest were repaid. In essence, forgiving the interest is something that has been given up both by parties, including labor, which finances half of the cost of the railroad retirement system, but none of the cost of the railroad unemployment insurance system. As far as management is concerned, it is going to be paying more in railroad retirement taxes on this account, just slightly more, and less in railroad unemployment insurance taxes.

Mr. Pease. As I recall, last year the joint labor/management group came before this committee and suggested that there be Federal money involved in shoring up the solvency of the pension fund.

Is my memory correct on that?

Mr. Myers. I was not part of that group. Some of the other gentlemen here will have to answer it.

Mr. Kilroy. That is correct.

Mr. Hopkins. Yes.

Part of that package that eventually was enacted included over a period of years a refunding to the railroad retirement system of moneys that were supposed to have been paid to so-called windfall beneficiaries pursuant to legislation that Congress had enacted. But instead of Congress appropriating the money to pay those windfall benefits, it was left for them to be paid out of the railroad retirement fund, which depleted the assets of the railroad retirement fund, to pay those windfall benefits Congress had enacted. So that money is in substantial part being restored to the system over a period of time.

To that extent, yes, there was participation by the Federal Government.

Mr. **Pease**. By the Federal Government. It is not beyond the realm of possibility that if the unemployment fund does not pay the interest to the pension fund, and the pension fund subsequently gets into trouble again, that labor and management might come to Congress and suggest a tripartite rescue from workers, management, and the Government.

Mr. **Hopkins**. That certainly is no part of anyone's contemplation, Congressman. The extent of the Federal participation in the railroad retirement solvency package was money that was owed to the system. And a case could have been made going back even earlier than the time period that we had discussed and considered with Congress. But, in any event, the case was very clearcut that the railroad retirement fund had been depleted, in other words, to pay the benefits that Congress had decided to add on to the railroad retirement benefits. So that was simply a partial or a substantial recovery of money that was owed to the system.

Now, we don't have any building case like that with respect to the future. All of the projections we look at say to us that the railroad retirement system is on a sound financial footing. And the fact is that with this package, if the consensus package were adopted or if the management proposal or suggestion for transferring the Federal-State system were adopted, that will infuse more money into the railroad retirement system than was in the calculations used last year for purposes of the Railroad Retirement Solvency Act. So that we see nothing on the horizon that would lead to that. I can assure you that is not part of any plan or idea that exists on management's part, nor labor's.

Mr. **Myers**. Personally, if I had any say in the matter, I would strongly oppose any general revenues going to the railroad retirement system just because it needed more money. If things turned worse financially, I would urge that the tax rates be increased.

Mr. **Pease**. I see.

When the Solvency Act was passed last year, calculations were made about any reductions in worker benefits and any taxes to be applied to employers.

What was the assumption at that time about whether the interest would or would not be paid on the money owed by the unemployment compensation fund?

Mr. **Kilroy**. I don't believe that it was even considered in the legislation. I think—the board is here, representatives of the board. But I believe that in the Solvency Act, no consideration was given to the repayment of the interest.

Mr. **Myers**. I think I can answer that question very definitely. The assumption that was made was merely that the repayment tax would be all that the railroad retirement account would get—namely, the temporary repayment tax up through 1990. As I had mentioned, under our consensus package, the railroad retirement account is going to get more than under present law, or, in other words, more than was contemplated that the railroad retirement account would get from railroad unemployment insurance account in the Solvency Act. So, you might say, we are ahead of the game that way under the consensus package.

Mr. PEASE. Was it assumed that the retirement fund would receive x million dollars in interest payments?

Mr. MYERS. It was assumed that it would get only the temporary repayment tax. And it was not assumed that there would be any payment of interest or principal—just whatever that tax would bring in. The Railroad Retirement Board actuaries made their calculations only under that assumption.

In essence, they assumed that part of the principal and all of the interest would not be repaid. At least, under our consensus agreement, we are repaying all of the principal.

Mr. PEASE. So the proceeds of that tax then were to be considered essentially in lieu of repayment of interest; is that correct?

Mr. MYERS. Exactly right.

Mr. HOPKINS. The position of the actuaries was they could assume no more than the law provided for. So that is exactly what they assumed—no more.

Mr. PEASE. You talk in your report about indexing the wage base and benefits henceforth at two-thirds of, I guess, the average manufacturing wage.

Mr. MYERS. It is two-thirds of the nationwide average wage. It is the same wage indexing series that is used in Social Security program. So, it is based on all wages in the country—not those covered by Social Security, but everybody in the country, as taken from all of the W-2 forms.

Mr. PEASE. Do you have any idea how many State unemployment compensation systems index benefits in a similar way?

Mr. MYERS. We could supply the figure for the record. A significant number do. I would guess it is probably less than half. But, on the other hand, it is not just one or two.

Mr. CAMPBELL. Would the gentleman yield a minute on that?

Mr. PEASE. I would be happy to.

Mr. CAMPBELL. You drew the analogy in talking about indexing benefits a while ago with the Social Security system, but certainly that is an apple/orange comparison, because it should be with those State systems. The ones that I have knowledge of, or have looked at, most of those benefits are controlled by the State legislatures and are set; and where there was an index and it was rather limited.

Do you have any knowledge of an absolute indexed system? Could you give us several States that would have a completely indexed system?

Mr. MYERS. The State systems that use indexing index the maximum benefit so, that not everybody's benefit is indexed. In railroad unemployment insurance almost everybody receives the same benefit rate. But, examples can be given of the number of States that index the maximum benefit, which in turn most people get.

Mr. CAMPBELL. A very key point.

They index maximum benefits which are based on earnings; right?

Mr. MYERS. Yes.

Mr. CAMPBELL. And yours is not that way. Yours is a single benefit?

Mr. HOPKINS. Based on earnings, also.

Mr. **Myers**. It is based on earnings. But the fact is that over 99 percent of the people get the maximum.

Mr. **Hopkins**. Earnings and length of service.

Mr. **Campbell**. I appreciate the gentleman yielding.

Mr. **Pease**. Why did you choose two-thirds rather than 100 percent for indexing purposes?

Mr. **Myers**. Mr. Pease, that, I think you can say, is part of the consensus agreement. Some of us wanted to use 100 percent; others did not want to index at all. So by sort of collective bargaining or consensus, we chose two-thirds.

Mr. **Pease**. I see.

Is it your feeling that the proceeds from the indexing of the wage base will be sufficient to pay for the extra costs of the indexing of the benefits?

Mr. **Myers**. Yes. Those go hand in hand.

Mr. **Pease**. The inflow will equal the outflow?

Mr. **Myers**. That is correct. In essence, the RUI system is a flat benefit, a flat contribution system. Almost everybody has the maximum monthly taxable earnings. They all get the same maximum benefit. They all pay on the maximum earnings base each month, virtually all.

Mr. **Pease**. So if you discount the past debt—it is discounted altogether and forget about it—then the income and the outgo of the system would be roughly the same each year, from now on?

Mr. **Myers**. Yes, in relative terms. In dollars, it will not, because wages will keep going up. But the system will be in balance just as much with the indexing as without.

Mr. **Pease**. OK. That is the point.

I can certainly understand why workers would want to have the benefits indexed. They certainly lagged behind over the years. It has been eight years now since there has been any increase at all.

But given the rather substantial financial problems of the system, would it be prudent, do you think, to have some kind of an interruptible indexing of the benefits so that if your projections prove to be wrong, you could slow down that outflow?

Mr. **Myers**. I think that the fail-safe device that has been built in is the tax rate—namely, that when the fund drops below certain levels, that tax will increase quite substantially.

Mr. **Stark**. Will the gentleman yield?

Mr. **Pease**. Surely.

Mr. **Stark**. Wouldn't, however, the system be safer to withstand a catastrophic drop in unemployment, an increase in unemployment in the State system, where you in effect socialize the risk? In other words, if you were in the State system and the railroad industry had a huge increase in unemployment, that would be spread out more so that that would be safer for future catastrophic changes. Right?

Mr. **Myers**. That is quite correct. If the railroads had much worse unemployment than the rest of the country, what you say is absolutely correct. Of course, conceivably it could go the other way around.

You are quite correct. The more people you spread it among, the more stable it is apt to be.

Mr. KILROY. But the railroads follow the economy of the States and of the Nation. They may fluctuate a little later as goods are not hauled, that are not manufactured, et cetera, and vice versa. The recovery generally is later, and the unemployment comes later in the railroad industry. I think that management would agree. But it flows with the economy of the various companies and states of the products that they haul.

It is not likely that a railroad in a State of its own is going to have a big unemployment problem, where everything else is booming.

Mr. PEASE. If I could ask Mr. Hopkins a question.

I understand that in 40 or 42 States, the benefits of the State-Federal unemployment compensation system are currently higher on average than those of railroad unemployment.

Is that correct?

Mr. HOPKINS. The maximum benefits, yes, sir; that is correct.

Mr. PEASE. If there were to be a transfer made and the railroad workers were to be covered by a State-Federal system, has anybody done any work at all to look at whether the contributions, the tax paid by the railroad industry into the State systems, would by and large pay for the benefits to railroad employees, or whether the transfer would represent a net cost or a net gain to the State system?

Mr. HOPKINS. That has been looked at. I think the best answer is that it would depend on how it is done. But if the railroad employers were subject to the same taxing structure as other employers, the railroad taxes would sustain the benefits to the extent that that State system is on a financially sound footing. Obviously, if it is in deficit, I suppose all the employers would be a part of that situation. But we would be no different from other employers.

Mr. PEASE. There was some mention that employees shared in this consensus package by agreeing to benefit reductions. I assume that one of those is essentially a 3-day waiting period.

Mr. HOPKINS. Yes.

Mr. PEASE. They go from 10 days out of 10 to 7 days out of 10?

Mr. HOPKINS. Yes, sir.

Mr. PEASE. Is there any other benefit reduction in the package, in the consensus package?

Mr. MYERS. Yes, Mr. Pease, there is in connection with the qualifying conditions. At present, workers can qualify for benefits by having just 3 months of employment in the base year, earnings of $1,500. Under the consensus agreement, the minimum qualifying condition is having employment in at least 6 months of the year and having earnings equal to five times the monthly maximum base. So, the qualifying conditions have been tightened up.

It does not affect the worker who is a steady one and works in all 12 months, but it does have a significant effect.

Mr. PEASE. Fine.

Just one final question, I guess. I must say that one of the things that I find attractive about the current unemployment system in the railroads, as opposed to the State-Federal system, is the fact that the longer an employee has been on the job, the more benefits he gets. As I look at the steel industry in my own area and find workers who have been on the job for 25 years being unemployed for long periods of time, that is a very attractive feature, to me.

Maybe we ought to change that for the State-Federal system.

Mr. **Stark**. How about putting the Federal-State system in the railroad retirement?

Mr. **Pease**. That is an idea.

The final question is this—and this really is for Mr. Kilroy: A lot of the railroad employees from my State over the last 2 years have contacted me complaining about two things—one, that their benefits are only $25 per day compared with $200 or more per week under the State system; and, No. 2, particularly from younger railroad employees, that their benefits ran out long before benefits of steel workers and auto workers ran out, and that railroad workers were not eligible for extended benefits or FSC benefits that we were passing here. Ohio is a high benefit State.

I am just wondering—you talk about a $2 increase in the daily benefit, which is not much of an increase. Are the railroad workers in Ohio specifically going to be better off under your recommendation rather than going into the State system?

Mr. **Kilroy**. I think it is significant to note the weekly benefit versus the daily benefit, which is a difference, as you well know. I don't know what the waiting period is in Ohio for benefits; 1 week? Then it would be the same now. And the amount of disparity, I don't know the length of it.

Railworkers are entitled under some conditions to extended benefits depending on the length of service. Younger people, of course, would not be. And I don't know what, of course, the qualifications are in particular in Ohio as to what a younger worker—what his length of service has to do with it.

It could conceivably be, in a given State, that some individuals in a given State could be better off, in some respects, insofar as total amount, total unemployment. But we think overall, when the eligibility requirements are all weighed against those systems, that the RUI system is better than the State systems.

Mr. **Pease**. Thank you.

Thank you, Mr. Chairman.

Chairman **Ford**. Thank you, Mr. Pease, Mr. Stark, and Mr. Campbell.

As the Chair, I would just like to make one or two comments and maybe ask one or two questions at this point in time.

I guess the status of the committee's report in dealing with the railroad unemployment compensation is that first we all know that the RUI program will not be on a current solvent basis until, I guess, some time in fiscal year 1987. Loans due to the pension fund at that time will amount to approximately $1 billion. I think if we just highlighted some of the recommendations that have been made by the committee—and I think the members have gone over all of those questions and the witnesses have responded—both management and labor recommend forgiveness of the interest on the debt of the pension fund to the tune of about $150 million.

Both management and labor also recommend transfers from the Federal general revenues to the Rail UI Program. Labor wants $135 million and management wants $200 million on this proposal in the recommendations by the committee.

You also, in recommendation 10, want the authority to borrow from the general fund. You want it to be set up similar to the States authority.

I know labor—and Mr. Myers, the independent person on the Committee, I would like to maybe just go back over some of the questions that were raised by members of this committee.

Wouldn't railroad workers receive greater unemployment compensation in 42 States that we know presently are paying more benefits than the Rail Unemployment Compensation Program.

I think Mr. Pease has made a very clear point that all States' programs but one provide 26 weeks of benefits. And the workers with less than 10 years with the railroad system—and in 1982—I guess the point I am trying to make is that in 1982, 75 percent of rail workers who received unemployment benefits had less than 10 years of service.

Mr. Pease made mention a minute ago that employees with 25 years of service—they would be entitled to some 52 weeks. But the case in point is that in 1982, 75 percent of those who were drawing unemployment compensation had worked 10 years or less. And we know today that there is only one State that we are talking about that provides less than those 26 weeks of unemployment compensation.

I guess the question has been raised already today: Why should rail workers be treated any different from other transportation workers who also work in a number of these different States? I mean, why should they be treated any differently?

Mr. KILROY. Again, to restate what we said before, that while it looks on its surface as a weekly amount that would be $125 a week versus $170 a week might look like it is more for the guy that is totally unemployed, there are other unemployment situations where he may not draw anything under the State plan at all, whereas he would get $25 a day under the RIOA——

Chairman FORD. Under recommendation 10 you want the authority to borrow like States. You also are making a plea here in this recommendation today, you want forgiveness of interest. Both labor and management are saying we ought to go to the general fund. One is saying $135 million; the other, $200 million. I don't think you want to be treated any differently than those other workers in the transportation field.

You are asking us at this time to treat us like States and let us be able to borrow. I don't think we have been that generous to States. We did not forgive the interest they owed to the trust fund. Yet you are appearing before the subcommittee and saying to us, on the one hand we want to be treated differently like the States. But at the same time we want our separate system.

Mr. KILROY. I don't believe there is conflict on our part as to what we are proposing, as in this consensus package, as stated before, the borrowing authority from the retirement fund by existing legislation says it cuts off in 1985. So we have to treat that in some fashion. Where else do we get the money in order to maintain the separate system other than to borrow in the same manner a State borrows, and pay back that money with interest as the State does, which would not appear, based on our projections and the fairly pessimistic look at it, that that would be any significant cost to the Federal Government, and what costs there was would then be paid back with interest.

Previously, of course, the Federal Government did lend money to the States without interest. That is the reason for asking on the consensus package $135 million from the Federal Government. The system, we are asking for a separate system as stated in our testimony and in the report. We believe it is a workable, has been for 45 years. My own personal opinion is had we not had that significant decline in that 18-month period, that we would not been before the committee with the type of thing we have had to do. However, that is history and has to be faced.

It doesn't appear to me—had that happened I think in spite of the carriers' position, they would now like to go to the Federal-State plan, I don't think they would have been here before you with that type of proposition. Nonetheless it is here. I believe the system we have proposed to you is adequately financed and has fail-safe mechanisms in it. It is designed that if there is insufficient money there, then the tax has to go up to pay it. Different than what it was before under old law that would run any risk then to the Federal Government beyond what is being proposed.

While we would like to have that daily benefit raised up to $50 a day if we could possibly get it, the conditions in the industry are such as they say that they could not afford that, the amount of tax would be too great. But I would certainly be one, and labor would be willing to raise that. We did attempt that, to go higher than the 27 to try to get it up. But averages, if you average amounts, average them out, I believe the 27 or even getting up to around 30 does get pretty close to the State average, although some States like Ohio, perhaps, are quite high.

Chairman **Ford**. I guess one of the biggest problems the system has had is that it has been underfunded. Are you saying to us that we ought to have the—you ought to have a separate system, just let management underwrite the costs 100 percent?

Mr. **Kilroy**. That is correct. That is what is being proposed I believe.

Chairman **Ford**. And leave it all to these other, being able to borrow, the Federal Government, be able to say that you can borrow from the general fund? Have this committee or Congress to say that we are going to waive that $150 million owed to the pension fund when, you know, I guess we will have witnesses testify a little later today that recipients of those funds, to tell us they want you all to waive this $150 million in interest to them.

Mr. **Kilroy**. Well, you know I am——

Chairman **Ford**. Is management willing to accept that full responsibility, to say they will no longer be underfunded and you can keep your separate system and not place in jeopardy the pension fund and those recipients who will be retiring, or those who are already receiving those funds?

Mr. **Hopkins**. I am not sure I can give an answer that would cover every facet of that question. But the recommendations of this committee provide for a financially sound system, whichever way Congress chooses to go; that is, preserving a modified independent RUIA system or going under a State system.

As to borrowing authority, as Dick Kilroy has said, the RUIA system has had borrowing authority but Congress has decided to take that away. The legislation removes that. Any unemployment compensation system requires a source of borrowing to deal with those fluctuating circumstances, but as a matter of principle and in terms of these recommendations we agree that borrowings should be repaid. And the package provides for that. In fact it has triggering mechanisms based on the level in the fund, and it provides that if at the end of a fiscal year there is anything owed to the source of the borrowing to the unemployment fund, the tax goes up 3.5 points.

In other words, subject to the 12-percent maximum, whatever the tax rate is, it goes up 3½ percent, so that there is sort of a fail-safe mechanism built into this that doesn't exist so far as I know with respect to the State borrowings. If there is some other source of borrowing, we would certainly be prepared to discuss that. But we don't know of any other. We have been prevented from continuing the borrowing against the railroad retirement system, so we have to go someplace.

Chairman **Ford**. But I was still looking for that repayment schedule by the year of 2000 from the committee. I guess I am still trying to——

Mr. **Hopkins**. Both tracks, as we call them; that is, the consensus package, so-called, and recommendation for transfer to Federal-State system, both provide for repayment of the principal by the year 2000 and of a fail-safe mechanism built into them so if at any point in which the tax rate is set it turns out that the forecasters have overshot or undershot the mark, the tax rate is readjusted to ensure that by the end of the year 2000 the principal will be repaid. So it has a self-adjusting formula built into it.

Chairman **Ford**. Mr. Campbell.

Mr. **Campbell**. Thank you, Mr. Chairman.

Let me go along with that just a little bit. You are talking about a formula that is built into repaying. You made the statement that any system has to have a place to borrow money.

Mr. **Hopkins**. Any unemployment system.

Mr. **Campbell**. Following that logic why then wouldn't we make you, why wouldn't we give you continued authority to borrow from the retirement fund, and make both labor and management come up with an equal amount to repay the money you already owe in the interest?

Mr. **Hopkins**. I think a different source of borrowing, that is, the railroad retirement fund, as we have had the borrowing authority——

Mr. **Campbell**. You want to stay self-contained, stay separate. Why wouldn't the committee tell you that you were going to pay *x* taxes per worker by management and take the same out of labor and do the same thing the States did. They had to either freeze or lower benefits until the money was paid back. That way you would keep your authority to borrow intact, and just set up a system to pay it back, rather than going to the general fund and doing all these other things.

Mr. **Kilroy**. Employees don't pay any of the tax now. The tax is all paid by the employer?

Mr. CAMPBELL. Yes.

Mr. KILROY. It is the employer's responsibility under existing law, and has been since inception, to pay this. That is what is owed. Labor has said we will go along, in order to maintain the separate system, with the forgiveness of the interest to the retirement fund. Part of that money is ours that we put in. Part of that tax we put in, and it is there. The system is solvent. This does not adversely affect the retirement system. As it did, the committee is unanimous in saying no, we wouldn't do that, and management agrees.

Mr. CAMPBELL. But where the States and others had to go in, rather than increasing the payments, they decreased the payments, when they tried to balance their systems in order to get the cash flow put back together. In this one I don't quite see, I think, that taking place. I am really posing it. Why wouldn't we structure it where management and labor, where the business and the worker shared the cost of repaying the system which they benefited from and not dip into the rest of the taxpayers and keep the system solvent?

Mr. KILROY. The employee under the Solvency Act is paying more tax into the retirement system to keep that system solvent.

Mr. CAMPBELL. The retirement system. I understand that. That is right. I am aware of that.

Mr. KILROY. So we are paying more to keep that system solvent. Now, the unemployment, we have come up with a package we presented before you which will make that solvent. That will make that plan solvent and keep it solvent.

Mr. CAMPBELL. If you go in and get $135 million, not loan, but grant, from the Federal Government; not paid with interest, but given——

Mr. KILROY. That is correct, for the reasons stated.

Mr. CAMPBELL [continuing]. Why would we give money out of the taxpayers' till, which is yours and everybody else's together, to you rather than—and let your system stay as an intact private system without saying we are not going to give it to you but we are going to impose certain conditions on you so you will have to make up that amount of money between management and labor to keep your system solvent? Why would we go into this if we weren't going to go all the way over and put you under the State system itself?

Mr. KILROY. Other than the reasons, Congressman, I stated before that—and was stated, rather, by Dr. Myers and others, that for the unfairness, the treatment that we had where the States did borrow money without paying interest in order to make our system equal with that for during that period, the amount is fairly well-stated at $135 million. We believe that is—that is the only reason I can give you. I can't give you reasons that are not there. But that is the reason we put in the report as to why we think that ought to be done.

Mr. CAMPBELL. I appreciate your yielding on that.

Let me ask you this. This question has been touched. Can you tell me, taking your plan as is, could you tell me essentially how the unemployment burden on the railroads then would compare with unemployment burden on all other forms of transportation—

trucking, shipping, airfreight, so forth? Would we have a level playing field of any sort in the shipping industry and, transportation industry?

Mr. KILROY. Their tax versus what the tax would be——

Mr. CAMPBELL. Tax, benefits, the whole ball game. I mean how would under your system, the burden of carrying unemployment under the railroad system compare to other systems?

Mr. KILROY. I think our system as proposed is better in taking care of that, I think.

Mr. CAMPBELL. Mr. Myers, would you tell us, how would the railroad industry compare to other industries on the burden of unemployment? Other industries in the transportation area.

Mr. MYERS. As to the tax burden, I think that under the consensus package, the burden would be somewhat greater on railroads than if they are in the State systems. However, this is difficult to determine because it is hard to say how the State experience rating would work out for the railroads. But the consensus package certainly would be an increased burden on the railroads over what present law is.

Mr. CAMPBELL. How would that increased burden compare to the burden that is being carried, say, by the air freight or trucking industry or others? I am interested in the playing field staying pretty level.

Mr. MYERS. Again, it is hard to know. With the State systems having experience rating, it is difficult to know what each particular segment is paying. So I cannot say completely authoritatively. But I think that the railroads would be paying at least as much as they would under the State systems.

Mr. CAMPBELL. Mr. Chairman, I would like to find that at some point, either from staff or the industry itself, in order to give us a better understanding of this point. If you have information on it, information you can provide to us——

Chairman FORD. We would appreciate it if you would submit it for the record.

Mr. MYERS. Perhaps the Department of Labor, which, in essence, oversees the State-Federal unemployment insurance system, might be able to give some help to that.

Chairman FORD. We will ask staff to get the information for you, Mr. Campbell.

Mr. KILROY. I would think between the Department of Labor and Retirement Board, certainly, they ought to be able to give the facts and figures.

Chairman FORD. The subcommittee thanks the panel for coming before it with the testimony.

Mr. Myers.

Mr. MYERS. Could I have just a moment? I noticed in the introductory paragraph of my prepared statement that there is a horrendous and embarrassing statement. I hope that this can be corrected. It states that I was executive director of the National Commission on Social Security Reform, having been appointed by the House of Representatives. That last phrase is wrong. Where it crept in was that I was on the first National Commission on Social Security, as a member and I was appointed by the House. I respectfully request that the last eight words of the first paragraph be deleted before they are printed in the record.

Chairman **Ford**. That request will be abided.

Mr. **Myers**. Thank you.

Mr. **Hopkins**. May I ask that the joint statement of Mr. Dempsey and myself be inserted in the record.

Chairman **Ford**. It will be made a part of the record, without objection.

The committee would like to call on the Office of Management and Budget, Mr. John Cogan, Associate Director of the Human Resources, Veterans and Labor Division.

STATEMENT OF JOHN F. COGAN, ASSOCIATE DIRECTOR, HUMAN RESOURCES, VETERANS AND LABOR DIVISION, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY JAMES VAN ERDEN AND JAMES ROSBROW, DEPARTMENT OF LABOR

Mr. **Cogan**. It is a pleasure to be here. I have brought the chief actuary from the Labor Department, Jim Van Erden, who I am sure you know, with me. I also have Jim Rosbrow from the Department of Labor, who can answer any technical questions or questions about how the mechanics of our proposed merger would work.

Director Stockman sends his personal regards and regrets that he is not able to attend. I assure you he remains keenly interested in solving the financial crisis that plagues the Railroad Unemployment Insurance Program.

I have a lengthy statement I would like to submit for the record with your permission.

Chairman **Ford**. It will be made a part of the record.

Mr. **Cogan**. I would like to make a set of brief remarks with respect to our proposal and consensus package. But first, the committee should be applauded for its foresight in having these hearings. These hearings will provide the necessary lead time for thoughtful, careful deliberations over a fair and enduring policy solution to the financial problems confronting the railroad unemployment insurance program. Last year, we worked together on the Railroad Retirement Solvency Act and we began to work on restoring the financial solvency to the Unemployment Insurance Program. Next year, I hope we can complete this process and enact an enduring solution to the insurance program that provides basic benefits to our nations rail workers.

I need not dwell on the dimensions and nature of the solvency problem. It is a problem that has existed for at least two and a half decades. The problem persists despite the enormous economic recovery that we are now in. And the problem will persist for the foreseeable future. In short, Mr. Chairman, the problem is structural. It requires a legislative solution. Without a legislative solution the RUI Program will continue to be a financial drain on the resources of the Retirement Act, or on the American taxpayer. The committee is faced with two generically different proposals. You have the administration's proposal, embodied in H.R. 6068, which would make the Federal-State UI Program universal by including railroad workers under its income security umbrella and would also require the industry to repay the full debt it owes to the railroad retirement fund.

You also have the rail panel's consensus recommendation which would retain the Federal railroad UI Program. It relies heavily on bailouts from both the railroad retirement fund and from the taxpayer. The administration certainly appreciates the hard work the members of the panel have put in and their willingness to tackle a difficult problem. The administration is especially grateful for the efforts of Robert Myers. However, the consensus package is fundamentally flawed. According to the panel's own estimates, 90 percent of the burden of achieving solvency is borne by the rail pension fund and the general taxpayer. The consensus package relies on forgiveness of interest which violates a fundamental principle of our national ERISA law.

Mr. Chairman, the railroad unemployment insurance program must be required to pay off its debts.

The second point about the consensus package is that we regard it as a step backwards from last year's Solvency Act, at least over the budget horizon. The combination of benefit and tax provisions contained in the consensus package actually worsens the solvency position of the RUI fund over the next 5 years. This is obscured by the various general fund subsidies and subsidies from the railroad retirement fund. Nevertheless, it remains a fact. The administration's proposal contained in H.R. 6068, represents, we believe an administratively feasible approach that is fair and equitable. It relies on a proven process. The States have an enormous experience in bringing new employers and new workers into the system.

Wage combining, which will be used during the transition period, is a widely used procedure. Basically our merger proposal is a mirror image of the 1938 process, when the railroad unemployment insurance fund was created. The administration's approach is fair to the States.We believe the administration proposal represents sound policy. The Federal-State system has proven itself over its almost 50 years in existence; through nine recessions it has remained solvent. It is not, as the rail panel termed it, a hodge-podge of systems. It is a well-coordinated, mature, well-functioning system. Indeed, Mr. Chairman, it has substantially outperformed the railroad unemployment insurance program.

Our approach is fair to railworkers. Knowing your concern, Mr. Chairman, for the State UI debt situation, under our proposal let me emphasize that States would incur no portion of the current RRUI debt.

As I indicated in my written testimony, 42 States now provide for higher maximum benefits than the rail UI Program provides. In contrast to the rail UI Program, the Federal-State system has not allowed the replacement rate to fall significantly, has not frozen maximum benefits for 8 years—8 years, I remind the committee, of very high inflation—and has not become so insolvent that it cannot provide for increases in benefits in the foreseeable future.

We believe, Mr. Chairman, that when you consider all things, American rail workers would be better off under the State and Federal system than they would be under the current RRUI Program.

Mr. Chairman, that completes my remarks. I would be happy to answer any questions you might have.

[The prepared statement follows:]

Statement of John F. Cogan, Associate Director for Human Resources, Veterans, and Labor, Office of Management and Budget

Mr. Chairman, and Members of the Committee, I wish to thank you for inviting the Administration to testify on proposals to resolve the serious financial problems plaguing the railroad industry's sickness and unemployment insurance system. The dismal financial condition of this program is the result of serious underfunding of unemployment payments to railroad workers. Resolution of the railroad sickness and unemployment insurance (RSUI) funding crisis is of vital importance to some 33,000 workers who are receiving benefits, 407,000 active railroad employees, and to the present and future recipients of rail industry pensions. Your Committee, with jurisdiction over taxes and unemployment compensation, must play a central role in resolving these issues.

This hearing is an important step toward completing the process begun last year of developing a sound, enduring, and evenhanded solution to the problems facing this troubled system. As you and the Members of this Committee well know, there are no easy solutions. Resolving the RSUI fund's financial imbalance and repaying its debt to the rail pension fund cannot be done without real contributions, and real sacrifices, on the part of both parties involved—rail management and rail labor.

ENSURING THE SOLVENCY OF UNEMPLOYMENT PAYMENTS TO RAIL WORKERS

When Director Stockman testified before this Committee on the Railroad Retirement Solvency Act last year, he pointed out the chronic, structural financial crisis in RSUI. Subsequently, the Congressional Research Service (CRS) confirmed this finding, pointing out that the RSUI system "is insolvent and has been for 18 of the last 23 years". (As another year has elapsed, CRS recently updated this to "19 of 24" years.)

Mr. Chairman, under your leadership the Committee drafted many of the key provisions of the Railroad Retirement Solvency Act of 1983. In addition to assuring uninterrupted monthly checks to 1 million elderly rail pension beneficiaries, your Committee: Took initial steps to stem the financial hemorrhage in the RSUI fund, preventing it from bankrupting the rail pension trust funds, instituted a dedicated employer financed tax to begin repaying the fund's debt to the rail pension, rejected the rail sector's proposal for open-ended General Fund subsidies, and recognized the seriousness of the RSUI financial crisis, setting in motion a process by which we all hoped an acceptable solution would emerge from the rail sector.

The Committee directed rail labor and management to report to the Congress by April of 1984 (1) recommendations that would ensure the long-term solvency of unemployment compensation for railroad workers, and (2) a plan that would ensure the full repayment of its debt to the rail pension fund. The Committee Report stated that "Should the RRUC Committee established by section 413 fail to provide an acceptable alternative procedure for the repayment of outstanding loans, it is the intent of the Committee on Ways and Means to make the repayment tax contained in this section permanent, as well as make other necessary modifications that will assure repayment of all RRUC debts by the end of the year 2000". (Rept. 98-30, Part 2, pp. 39-40.)

BACKGROUND

Let me now briefly describe the situation your Committee charged the RRUC Committee to address, highlighting the key features of the current RSUI program and its continuing insolvency problem.

The rail sector receives unique treatment from the Federal Government, as Members of this Committee know. In 1938, railroad workers were removed from coverage under the Federal-State UI system and were instead covered by the Federal RSUI system. According to the Congressional Research Service, three major reasons were given at the time for excluding railroad employees from Federal-State UI.

Even though Federal-State UI systems cover other mobile occupations such as airlines and trucking, it was argued that railroad workers crossing State lines might not qualify for benefits in States through which they travelled.

When RSUI was established in 1938, railroad employment was increasing. Railroads were considered "low risk" employers, and RSUI was designed in part to provide partial compensation schedules benefitting part-time employees. In 1982, however, the average rail UI claimant received some 51 days of unemployment compensation.

Even though rail labor and management were—and are—free to negotiate supplemental unemployment benefit agreements ("SUB" agreements) outside of State UI, the rail sector argued that railroad wages at that time were uniform on a national basis and so UI payments should be too. Wages for Federal employees are also uniform across the nation, but unemployment compensation for former Federal employees (UCFE) is provided through the State systems. In addition, the rail sector itself is experiencing different wage structures across the nation as a result of actions taken by Conrail.

Unlike most State unemployment systems, the railroad fund finances both sickness and unemployment payments to railroad workers. (In most other private industries, sickness payments for workers are provided directly by management.)

Both unemployment and sickness payments are financed by contributions from rail management of up to 8 percent on a $600 monthly wage base. According to CRS, sickness benefits over the years have accounted for nearly a third of total RSUI costs. If one subtracts the portion of taxes needed to finance sickness benefits from the total 8 percent tax rate, then the portion of the tax that goes to finance UI benefits for workers is much less—on the order of 5 percent, or $30 a month per employee. Unlike the Federal State system, RSUI contributions are not experience rated.

FINANCIAL INSOLVENCY IN THE FACE OF ECONOMIC RECOVERY: FISCAL YEAR 1984 FINANCIAL PICTURE

When the RSUI fund does not have enough money to pay benefits, it borrows from the rail pension fund. As table 1 shows, the FY84 operations of the fund will add another $188 million to its debt to the rail pension. As of August 1, the RSUI fund owed some $727 million to the rail pension—or about four times its annual outgo. This debt is expected to reach $767 million by the end of the fiscal year.

Table 1.—Fiscal year 1984 status of the railroad sickness and unemployment insurance system

	Millions
Outlays:	
Sickness	$67
Unemployment	230
Administration	16
Interest	78
Total	391
Receipts:	
Contribution to finance benefits	187
Contributions to finance administration	16
Debt repayment	0
Total	203
Deficit: Borrowing from rail pension fund	188
Debt to rail pension at end of year	767

That this large imbalance between income and outgo has persisted in the midst of the strongest post-war economic recovery is quite disconcerting. It shows the persistent, structural underfunding that has caused the RSUI fund's insolvency.

USE OF PRUDENT ECONOMIC ASSUMPTIONS AS THE BASIS FOR SOUND POLICY

Last year this Committee wisely insisted on applying the same approach used to develop the bipartisan Social Security solution to the Railroad Retirement Solvency Act. Namely, that we must use deliberately prudent assumptions to gauge the adequacy of proposed solutions so that we insure against risk and ensure that financial crisis do not recur. There are two key assumptions that affect the financial outlook for RSUI: the course of railroad employment and interest rate levels. The level of railroad employment affects both RSUI income and unemployment payments. The level of interest rates affects debt service costs.

The rail panel partially recognized this in their request, stating that " . . . the Committee believes it is prudent to establish the financing on the basis of the two more pessimistic assumptions . . .". They forecast the RSUI program's financial outlook under varying employment projections, using an optimistic "best guess" path, as well as a somewhat lower, more "prudent" employment path. However, the RRUC panel used only a single "best guess" interest rate forecast, neglecting to assess the impact of more prudent interest rate assumptions.

FINANCIAL OUTLOOK 1985–2000

Table 2 presents the financial outlook for the RSUI program for the remainder of the century under the rail panel's optimistic "best guess" and "prudent" employment assumptions. As the table illustrates, the structural imbalance between revenues and outlays that has plagued the program for the last 24 years will persist through the end of the century and beyond, even when only "best guess" interest rates are assumed.

TABLE 2.—DIMENSIONS OF ANNUAL DEFICITS

[In millions of dollars]

	Fiscal year—						
	1985	1986	1987	1988	1989	1995	2000
"Best guess" employment:							
Receipts	235	227	221	218	214	174	149
Outlays	374	343	291	252	273	211	213
Deficit	−139	−116	−70	−34	−59	−37	−64
Prudent employment assumption:							
Receipts	232	218	208	204	196	143	109
Outlays	402	442	373	306	255	241	236
Deficit	−170	−224	−165	−102	−59	−92	−127

Under the rail panel's "best guess" employment projections, the RSUI debt to the rail pension will grow to $1.3 billion by the year 2000, and over $1.6 billion under prudent employment assumptions. Using prudent employment assumptions, debt service on the RSUI fund's mounting debt will exceed RSUI income before 2000.

Although the panel's projection of $1.6 billion in debt to the rail pension fund by itself is alarming, it only tells part of an unsettling story. Beginning in September of 1985, the RSUI fund's unlimited access to rail pension funds will expire and the Railroad Retirement Board will be unable to pay full unemployment and sickness benefits on a timely basis. The rail panel estimates that by 2000 the unfinanced benefits and related interest would accumulate to a total additional liability of over $800 million under prudent employment assumptions, for a negative balance of −$2.4 billion.

Table 3 combines both unfinanced benefits and debts to the rail pension into an "account balance" and provides a more complete picture of RSUI insolvency. Table 3 shows the basic dimensions of the RSUI insolvency, using the rail panel's employment assumptions.

TABLE 3.—RAIL SICKNESS AND UNEMPLOYMENT FUND: CURRENT LAW DEBT SITUATION

[Dollar amounts in millions]

	Fiscal year—						
	1985	1986	1987	1988	1989	1995	2000
"Best guess" employment assumptions:							
Gross debt: Fund balance without debt repayment tax	$901	$1,015	$1,085	$1,123	$1,192	$1,728	$2,145
Reduction in debt from debt repayment tax [1]			−96	−179	−272	−455	−581
Net debt: Current law fund balance	901	1,015	989	944	920	1,273	1,564
Debt service	80	85	84	69	58	65	78
Percent of income	37	40	41	34	29	41	59

TABLE 3.—RAIL SICKNESS AND UNEMPLOYMENT FUND: CURRENT LAW DEBT SITUATION—Continued

[Dollar amounts in millions]

	Fiscal year—						
	1985	1986	1987	1988	1989	1995	2000
Prudent employment assumptions:							
Gross debt: Fund balance without debt repayment tax	932	1,134	1,302	1,412	1,481	2,202	2,924
Reduction in debt from debt repayment tax [1]			−93	−170	−254	−419	−532
Net debt: Current law fund balance	932	1,134	1,209	1,242	1,227	1,783	2,392
Debt service	82	92	98	85	75	87	115
Percent of income	38	46	51	45	42	69	124

[1] The debt repayment tax includes interest savings.

Table above also highlights two important points:

The debt repayment tax instituted by this Committee last year reduces the FY2000 debt by some $530 million under prudent assumptions—otherwise the negative balance by 2000 would grow to −$2.9 billion. This illustrates the importance of beginning solvency measures early before the interest costs have a chance to swell the debt.

It also illustrates that the RSUI provision of the Railroad Retirement Solvency Act of 1983 was only a downpayment in the effort to prevent the RSUI program's continuing drain on the rail pension fund.

Recomputing the condition of the RSUI trust fund under CBO's current, less optimistic interest rate assumptions highlights the sensitivity of the trust fund's financial outlook to the interest rate forecast. For example, combining the rail panel's "best guess" employment assumptions with CBO's more prudent interest rate forecast yields a −$3.5 billion RSUI fund balance in FY2000, a further −$1.9 billion in debt simply due to alternative interest rate assumptions. In addition, under these assumptions debt service increases from 48 percent of income in 1985 to over 263 percent of income by 2000.

CAUSES AND RAMIFICATION OF INSOLVENCY

According to CRS, the RSUI fund is insolvent because "the railroad industry has not paid enough unemployment taxes to cover benefits." As Table 4 shows, the sickness and unemployment contributions as a percent of railroad payroll in 1983 have declined by 53 percent since 1959. Even with the solvency measure begun by this Committee last year, RSUI taxes as a percent of total payroll will be some 32 percent below their 1959 level.

TABLE 4.—DECLINING REAL RSUI CONTRIBUTIONS AND BENEFITS

Year	RSUI contributions as percent of payroll	Taxable RSUI wage (real dollars)	Average weekly benefit as percent of wage
1959	2.62	400	41.2
1970	2.04	300	33.4
1981	1.54	128	24.5
1982	1.42	122	22.6
1983	1.23	117	20.7
1984	1.77	170	19.2

Part of the reason for this is the dramatic decline in the RSUI wage base when adjusted for the growth in prices. Even with the wage base increase agreed to by the parties last year, the real RSUI wage base today is only 43 percent of its 1959 value.

By contrast, the proportion of average weekly wages replaced by the RSUI weekly benefit has dropped from 41 percent in 1959 to 19 percent today, a reduction by more than half. In combination with the continued structural insolvency discussed earlier, these facts further support the CRS findings of insufficient RSUI contributions.

One of the unfortunate ramifications of this underfunding is that benefits have been frozen at $25 a day since 1976, and 42 States—covering some 85 percent of all railroad workers in 1982—now provide higher maximum weekly payments than RSUI. Yet, any increase in RSUI benefits would be unthinkable as it would only add to the financial hemorrhage of the system, further threatening the rail pension trust funds.

KEY PRINCIPLES FOR AN ACCEPTABLE SOLUTION

Mr. Chairman, as you and the members of this Committee well know, the history of rail sector social insurance programs up until last year was one of repeated "band aid" solutions.

Let me now outline some basic guidelines that will help us continue on the more responsible course begun by this Committee with the Railroad Retirement Solvency Act:

The resources to finance unemployment costs must primarily come from the railroad industry. It must be a real solution, not one accomplished with mirrors. The solution cannot include open-ended General Treasury contributions, either subsidy appropriations or loans.

The solution must not add to the Federal budget deficit.

The solution should recognize and treat the rail pension trust fund just like any other private industry pension. The rail pension cannot be asked to write-off its investments in the RSUI fund for the sake of subsidizing the parties who would otherwise have to pay the bill.

Federal Statutes should not substitute for rail sector collective bargaining. There is no reason why the Federal Government should have to conform Federal statutes to private sector agreements. Workers and management in many other sectors have found ways to supplement unemployment programs to better meet their needs.

THE ADMINISTRATION'S PROPOSAL

Mr. Chairman, the Administration's proposal is contained in H.R. 6068, a bill that would resolve the RSUI crisis in a fair and equitable fashion.

The principal feature of the Administration's proposal is that coverage of the Federal-State Unemployment Insurance Program would be expanded to include railroad workers under its income security umbrella. As part of the transition, the current Federal Railroad Unemployment Insurance program would be phased-out over during approximately an 18-month period. When this transition is complete, both railroad employers and employees would be treated the same as all other private employers and employees covered by the Federal-State Unemployment Insurance system.

Attachment B provides a full section-by-section description of H.R. 6068. My testimony outlines: How the proposed merger of railroad workers into the Federal-State Unemployment Insurance System (UI) would be accomplished; and, the mechanism for repaying the debt owed by the RSUI program to the Railroad Retirement Pension fund.

MERGER OF RAIL WORKERS INTO FEDERAL-STATE UI SYSTEM

The design of our proposed merger of railworkers into the Federal-State UI system is the mirror-image of the 1939 change when the Railroad UI program became a separate Federal program. Moreover, the procedures used to accomplish the merger are identical to those now used by the States to process interstate UI claims.

The bill would begin coverage of railroad workers under State Unemployment Insurance on January 1, 1986. We recognize that calendar year 1986 is now the earliest feasible date to begin coverage. Newly unemployed railroad workers after that date would apply for unemployment benefits under the State system just like any other worker in the United States. Railroad workers who already began a claim under the RRUI benefit year which began the previous year would finish their claim still under RRUI.

Railroads would begin paying State and Federal Unemployment Insurance taxes, just like other employers now do, effective January 1, 1986. States would keep track of benefits paid railroad workers and of railroad UI taxes using the same rules they do for other employers. During the first year and a half of railroad coverage, railroad claims would be handled as "combined wage" claims. The RSUI fund would reimburse the States for that part of the benefit that was paid on the basis of earnings before January 1, 1986. States would not be asked, nor could be expected to pay benefits for which they have not had an opportunity to collect the taxes.

Let me illustrate with a few concrete examples, Mr. Chairman, just how the use of combined wage claims would operate.

Take a railroad worker who earns $9,000 every three months, for an annual total of $36,000. If the worker became unemployed on January 2, 1986, the relevant base period (first four of the last five quarters) would be October 1, 1984, to September 30, 1985. All of this period falls under RRUI coverage, so the RRB would reimburse the State for the full amount of the worker's benefits.

Now take a worker who becomes unemployed on July 1, 1986. The base period is April 1, 1985, to March 31, 1986. Remember the State began collecting taxes to cover this worker on January 1, 1986, and so now is responsible for one quarter of the benefit costs. The other three quarters would be reimbursed by RRB to the State. For a worker who became unemployed October 1, 1986 (base period July 1, 1985, to June 30, 1986), half the benefit costs would be the responsibility of the State and half would be reimbursed by RRB.

THE PROPOSED MERGER REPRESENTS SOUND POLICY

Mr. Chairman, we believe that the proposed merger contained in H.R. 6068 not only addresses the financial crises facing the RSUI program in an effective and fair manner, but also represents sound policy. The rationale for a separate Federal railroad unemployment program no longer exists.

Recall, Mr. Chairman, that in 1938 it was argued that railroad workers needed a separate Federal program because a high proportion of the industry's employees crossed State lines in performing their work duties. At that time, many would not qualify for benefits in States through which they travelled. While this may have been true in 1938, it is no longer the case. As the Federal-State UI system has matured over the years, it has developed a set of well-functioning procedures to ensure the proper payment of unemployment benefits to workers engaged in interstate commerce. Indeed, the Federal-State system now successfully covers employees in other major transportation sectors who travel interstate. For example, the system provides effective coverage for the 1,120,000 workers in the trucking industry, the 450,000 workers in the air transportation industry, and the 189,000 workers in the maritime industry. The Federal-State system can effectively cover the 400,000 employees of the railroad industry.

Second, for almost 50 years the Federal-State UI system has served our Nation's workers in providing financial assistance to those experiencing temporary unemployment. Mr. Chairman, I suspect the members of this Committee might take exception to the rail panel's characterization of the Federal-State UI system as "a hodge-podge of State . . . programs." Rather, it is a well coordinated, mature sytem that has proven itself through the nine recessions and significant structural change that have occurred in our economy since the program was established. Indeed, Mr. Chairman, I respectfully submit that it is a far better system than the RSUI program which: Allowed the wage replacement rate to fall by 14 percent between 1959 and 1976; exacerbated this decline by freezing unemployment benefits in nominal dollars since 1976, thereby reducing the real value of benefits by 40 percent in just 8 years; and further exacerbated this decline by becoming so insolvent that it is unable to provide its unemployed workers with any increase in benefits in the foreseeable future.

Indeed, Mr. Chairman, railroad workers would currently be eligible for the higher maximum weekly benefits available in 42 States. By 1986, the number of States providing a higher maximum will be even larger. Although partial benefit provisions of State law are more restrictive than under RUI, the average unemployed railroad worker received some 51 days of unemployment benefits in 1982. The Table below compares RUI benefits with State UI benefits in the five States that had over 20,000 rail workers in 1983.

TABLE 5.—ADDED UI BENEFITS FOR SELECTED PERIODS OF UNEMPLOYMENT

	State benefit	Additional benefits to rail workers for selected periods of unemployment [1]		
		5 weeks	10 werks	26 weeks
State:				
Illinois	$161	$19	$199	$775

TABLE 5.—ADDED UI BENEFITS FOR SELECTED PERIODS OF UNEMPLOYMENT—Continued

	State benefit	Additional benefits to rail workers for selected periods of unemployment [1]		
		5 weeks	10 weeks	26 weeks
Pennsylvania	214	231	676	2,100
Texas	182	285	570	1,482
California	166	39	244	900
Ohio	147	110	220	572

[1] Assumes rail worker with less than 10 years of service who would not be eligible for extended benefits. Approximately 75 percent of all RUI recipients have less than the necessary seniority.

Also, railroad workers would be eligible for extended UI in high unemployment States regardless of seniority.

Experience rating provisions of State systems should help to stabilize railroad employment. Railroads who seek to use the unemployment system to finance frequent layoffs and recalls would be penalized by higher taxes. This should result in fewer spells of partial unemployment than are now experienced under RSUI and, in the long-run, lower rail employers' tax burdens.

Mr. Chairman, there may be questions in the minds of some about whether the merger can be carried out in an orderly manner that ensures the continuity of unemployment benefits to our Nation's railroad employees. Mr. Chairman, let me state without reservation that I have the utmost confidence in the Federal-State UI system to effectively carry out this merger. The historical record of its performance and its current procedures for handling claims involving "wage combining" are the bases for my confidence

Throughout its history, the Federal-State UI system has been repeatedly called upon to expand its income security umbrella to additional workers and industries. In 1938, when the system was still in its infancy, coverage was extended to employees of Federal Reserve member banks, hospital interns and student nurses, and certain students employed by schools.

Coverage was further extended in 1946 to maritime workers, in 1954 to Federal civilian employees, in 1958 to veterans, and in 1960 to certain aircraft industry workers and employees of nonprofit institutions.

In the 1970s as the system reached full maturity, a series of legislative actions made coverage of the Federal-State system nearly universal. The 1972 law extended coverage to employees in small firms who met certain qualifying requirements, workers in small nonprofit organizations, employees of State hospitals and institutions of higher education, salesmen, and U.S. citizens working for American firms outside the U.S. The 1976 law provided the largest single coverage expansion in the program's history. Employees covered by this law included agricultural laborers on all but the smallest farms, virtually all State and local government employees, employees of nonprofit elementary and secondary schools, and household workers who met certain qualifying requirements.

In light of this history, Mr. Chairman, I anticipate that our Federal-State system will encounter no significant problems in handling the workload involved in our proposal to take the next step toward making the Federal-State UI system universal. Indeed, Mr. Chairman, the 400,000 rail workers who would be brought into the system seems small in comparison to the 10 million workers who were brought into the system under the 1976 legislation.

Concerning the workability of current procedures, in June 1984 the Federal-State UI system effectively provided benefits to 170,000 unemployed workers per week whose claims involved interstate procedures. This compares to RRUI claims of 20,000 per week during the same period.

Moreover, a change in coverage of 400,000 is considerably smaller than the recently experienced year-to-year changes in coverage under State UI. For the last five years, the number of workers covered under State UI has increased by an average of 728,000 a year. This increase of newly covered workers is nearly double the total number of railroad employees that we propose to bring into the system.

Furthermore, I can assure the members of this Committee that the required administrative resources will be provided by our proposal. Under our proposal, railroad employers will be subject to the FUTA tax beginning on January 1, 1985. A portion of the proceeds of this tax will flow immediately into the administrative account of the unemployment system. Also, beginning on January 1, 1986, workload information that determines the disbursement of funds from this account to the

States for administrative expenses will be automatically adjusted upward to reflect the higher anticipated workload.

EFFECT ON STATE UI PROGRAMS

Railroad employment for 1983 stood at less than 400,000, a level representing less than one half of one percent of the almost 87 million workers covered under State UI. The inclusion of railroad workers under Federal-State UI workers as proposed would therefore have a minimal impact on State balances in the Unemployment Trust fund and on State UI administrative operations. For example, Illinois has the largest number of railroad employees—some 33,000—which represent less than 8 tenths of one percent of its State UI coverage.

States where the number of railroad workers is greatest relative to the number of workers covered under State UI are Nebraska, where the less than 13,000 railroad workers equal 2.2 percent of employment covered by State UI, and Montana, where 5,100 railroad workers amount to 2.0 percent of State UI coverage. There are only six other States where the ratio of railroad workers to State UI covered workers even reaches 1%: Idaho 1.0%; Kansas 1.3%; Kentucky 1.0%; North Dakota 1.0%; West Virginia 1.3%; and Wyoming 1.9%.

ADVANTAGES OF UNIVERSAL COVERAGE

This bill deals effectively with the issues involved. It does not ask anyone—the American taxpayer, rail management, rail labor, or the rail pension fund—to assume an undue burden. It treats all parties to the transition fairly and would not place a burden on the States or other private sector employers, as witnessed by the endorsement from the Unemployment Benefits Association.

REPAYMENT OF RSUI DEBT TO RAIL PENSION FUND

Under H.R. 6068, the current Federal Railroad UI Tax would be retained and the proceeds would be dedicated to retiring the RSUI program's debt to the rail pension fund. Of the total tax rate of 8 percent, 2.7 percentage points is projected to finance sickness benefits and .5 percentage points is projected for administrative expenses. Thus, Mr. Chairman, our proposal retains and dedicates a 4.5 percent tax to repaying the outstanding debt owed to the rail pension. Retention of this tax would enable repayment of the outstanding debt by the mid-1990s under the "best guess" employment and interest assumptions and after the turn of the century under the "prudent" employment assumptions.

Let me state emphatically, Mr. Chairman, that the RSUI program's debt to the Retirement Account must be repaid. It must not be forgiven. Last year, together we worked to design a package to restore the solvency of the Railroad Retirement program. Our combined efforts resulted in enactment of the Railroad Retirement Solvency Act of 1983 which ensured the payment of retirement benefits to the one million retired rail workers and their dependents.

Let us not begin to unravel your Committee's important legislation by forgiving the RSUI program's debt to the Retirement Account. The rail industry must accept responsibility for its previously agreed to obligations.

RAIL PANEL CONSENSUS RECOMMENDATION

Mr. Chairman, I want to take this opportunity on behalf of the Administration to thank the Rail Unemployment Compensation Committee members for the time and effort they have devoted to addressing the RSUI program's solvency problem. The Administration is particularly grateful to the Committee Chairman, Robert J. Myers. His efforts on this and other important issues exemplify the finest of American traditions: a strong devotion to public service.

ADMINISTRATION VIEWS ON RAIL PANEL'S CONSENSUS PACKAGE

Mr. Chairman, the Administration is disappointed that the panel split and a majority rejected the option of making the Federal-State UI system universal and chose to recommend maintaining the separate Federal UI program for railroad workers. The Administration questions whether the rail panel's consensus recommendation is in the best interest of railroad workers; we know it is not in the best interest of rail pensioners nor the American taxpayer.

The panel's "consensus" package includes a complicated array of 14 separate recommendations, some of which contribute to restoring RSUI solvency and others which exacerbate the situation.

Mr. Chairman, the so-called "consensus package would actually reverse the solvency measures your Committee so courageously added to the Railroad Retirement Solvency Act of 1983. Depending upon which of the rail panel's employment paths are assumed, between $60 million and $190 million of revenues by 1990 could be "given back" to rail management under this "consensus" package. This would increase the budget deficit by tens of millions of dollars.

Yes, the rail panel's "consensus" package achieves RSUI solvency by 2000, under their "best guess" employment assumptions. But, solvency is achieved, by robbing Peter—the pension fund—to pay Paul—RSUI. Oh, yes, the American taxpayer also is supposed to pay for RSUI solvency.

How, than, Mr. Chairman, is RSUI saved? The "consensus" would take between $.7 billion to $2.9 billion from the rail industry pension fund, effectively transferring it to the RSUI fund by forgiving all interest owed the pension fund. As shown in Table 6, the jointly employers-employee funded pension plan is called on to bail-out RSUI, which is, in theory, employer-funded.

TABLE 6.—LOST PENSION ASSETS IN YEAR 2000 FROM INTEREST FORGIVENESS

[In millions of dollars]

	Rail panel estimates		CBO interest rates	
	Best guess employment	Prudent employment	Best guess employment	Prudent employment
Year: Fiscal year 2000	$720	$990	$2,420	$2,890

Table 7 summarizes how RSUI attains solvency under the rail panel's recommended approach.

TABLE 7.—DISTRIBUTION OF "SOLVENCY" MEASURES IN PANEL'S DESIRED OPTION

	"Best guess" employment assumption			
	Fiscal years 1985–89	Percent	Fiscal years 1985–2000	Percent
Rail pensioners: Interest forgiveness	$313	80	$720	76
The parties: Contribution changes and outlay increases	−59	−15	100	10
Taxpayers: General fund subsidies [1]	135	35	135	14
Total	389	100	952	100

[1] Excludes general fund borrowing authority requests.

Over the entire forecast period (1985–2000) fully 90 percent of the package's financial solution comes from the rail pension fund and the general fund. The net contribution of rail employers and employees is 10 percent.

During the budget horizon period FY85–89, the distribution of the "solvency burden" is even more skewed. The rail panel's recommended package of tax and benefit provisions would actually worsen the solvency position of the RSUI fund during the budget period, since tax increases are postponed and benefits liberalized.

Clearly, Mr. Chairman, the rail panel's recommended approach retrogresses, worsening the RSUI fund's financial condition and violating the guidelines your Committee laid out in last year's report on the Railroad Retirement Solvency Act of 1983. This approach violates the basic principles of sound public policy. It would: Finance RSUI by draining rail pensions; add to the deficit; and rely heavily on further Federal subsidies and borrowing.

Thank you for the opportunity to present the Administration's policy. I am happy to answer any questions you may have.

ATTACHMENT A.—FINANCIAL DETERIORATION OF RSUI UNDER ALTERNATE ECONOMIC ASSUMPTIONS [1]

[Dollar amounts in millions]

	1983	1984	1985	1986	1988	1990	1995	2000
RSUI debt service:								
Best guess	$56	$78	$106	$113	$118	$124	$217	$350
Prudent	56	78	109	124	143	160	282	483
Debt service (percent of income):								
Best guess	35	43	48	54	59	65	137	263
Prudent	35	35	50	61	76	95	222	519
RSUI account balance: [2]								
Best guess	−$572	−$762	−$930	−$1,070	−$1,180	−$1.190	−$2,140	−$3,520
Prudent	−572	−762	−960	−1,134	−1,400	−1,570	−2,860	−4,930
RSUI debt to rail pension:								
Best guess	575	766	930	1,040	1,060	1,030	1,850	3,010
Prudent	575	766	960	1,070	1,140	1,260	2,100	3,500

[1] Uses most recent CBO interest rate projections and rail panel's employment assumptions.

[2] Account balance include (1) the RSUI debt to railroad pension fund and (2) benefits not financed under current law.

ATTACHMENT B.—STATEMENT IN EXPLANATION OF THE RAILROAD UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1984

In 1938, railroad workers were specifically excluded from coverage under the Federal Unemployment Tax Act (FUTA). Unique unemployment and sickness compensation is provided these workers under the Railroad Unemployment Insurance Act (Rail UI). The Railroad Unemployment Insurance account in the Unemployment Trust Fund is permitted to borrow from the Railroad Retirement account in order to pay unemployment compensation to unemployed railroad workers. The financial crises of those accounts was addressed in part last year by the Congress with the passage of the Railroad Retirement Solvency Act of 1983 (Pub. L. 98–76).

This draft bill would extend unemployment compensation coverage under FUTA and State unemployment compensation laws to railroad employment, phasing out the 1938 rail sector program. Railroad workers would be covered under the regular Federal-State unemployment compensation program on the same basis as other workers covered by FUTA and the State unemployment compensation laws.

The draft bill would repeal the exclusion from coverage under FUTA and, in addition, would require the coverage of railroad workers under the various State unemployment compensation laws. Coverage under State laws would be effective on January 1, 1985, unless amendment to the State law is required to effectuate such coverage. If State legislation is required and the legislature in that State is in session for 30 days after the enactment of these amendments, coverage would be effective on January 1, 1985. If a State legislature is not in session for 30 days after the enactment of these amendments, coverage would be effective one year later, on January 1, 1986. FUTA coverage of railroad workers would take effect on the same date State law coverage is effective in that State.

If a State law does not provide coverage of a railroad worker because of issues relating to the place or places where services are performed, the draft bill would provide for coverage in the State of the worker's domicile or, if the employer conducts no business in that State, coverage will be required where the individual is assigned as a base location by the employer. If the States do not resolve disputes as to coverage, the Secretary of Labor is given authority to decide which State law shall cover individual railroad workers.

Finally, to eliminate the potential for windfall dual compensation under Rail UI and State law, unemployed railroad workers would have full rights to benefits (including extended benefits) under the Federal-State unemployment compensation system as of the effective date of their coverage under that system. Those workers who have an ongoing claim under Rail UI would continue to receive benefits under that system until the Rail UI benefit year expires. These workers would commence entitlement under the Federal-State unemployment compensation system at the end of that unexpired benefit year. Coverage under State law would nonetheless begin on January 1 of the year of coverage.

Transitional provisions are required to effectuate the smooth transition from coverage under Rail UI to coverage under the Federal-State unemployment compensation system. The States are required to participate in the transitional program for railroad workers. A State will be entitled to reimbursement for that portion of compensation which is based on services and wages not covered by the State law. Reimbursement will be made through the Railroad Unemployment Insurance account to the appropriate State account in the Unemployment Trust Fund. Provisions are made for the smooth and timely transfer of these funds. The reimbursement to the State for compensation is also not chargeable to the newly covered employer of the previously uncovered services or wages. Therefore there would be no impact upon the employers' experience rating, and the employer would be considered as a new employer for unemployment compensation purposes. For the period of the transition, administrative costs would be provided through the grants to the States for the administration of their unemployment insurance programs.

Railroad sickness insurance would be unchanged by this bill. However, railroad labor and management would be freed to collectively bargain future additions to sickness benefits or income without a conforming federal statute. The Railroad Retirement Board would continue to administer the sickness insurance program. The existing railroad sickness and flexible unemployment contribution schedule would also be unchanged. The contribution schedule would finance railroad sickness benefits on an ongoing basis and pay-off the outstanding debts to the rail industry pension fund.

Chairman FORD. Thank you very much.

Let me make sure that I understand you. OMB wants to transfer it to the States and have management pay State taxes and repay all of the principal as well as the interest owed on the loans. Is that correct?

Mr. COGAN. That is correct.

Chairman FORD. Under the administration's bill, what would be the cost of the unemployment taxes for the rail industry compared to other transportation industries?

Mr. COGAN. Mr. Chairman, we have some statistics that compare the relative taxation of the rail sector to other transportation industries. The data we have, however, are only for 1983 and we are in the process of preparing out-year projections.

Chairman FORD. Would you update those projections and submit for the record for the subcommittee?

Mr. COGAN. I would be more than happy to, Mr. Chairman.

[The information follows:]

UNEMPLOYMENT INSURANCE TAX PER WORKER

	Railroad	Transportation [2]
1983	$212	$286
1984	398	325
1985	398	317
1986	398	278
1987	398	259
1988	398	228
1989	398	210

[1] Current law Railroad UI taxes, excludes debt repayment tax.

[2] State UI and FUTA taxes for seven industries.

Chairman FORD. We appreciate it.

Mr. COGAN. I would point out for 1983——

Chairman FORD. We would like to hear for 1983, but we would like the current information if we can get it.

Mr. COGAN. Fine. For 1983 it is clear most other transportation industries were paying far greater tax than the rail sector was.

Jim?

Mr. Van Erden. Yes, Mr. Chairman. One example, if we look at the intercity highway transportation sector, they paid on average equivalent of about a 4-percent tax rate. It is about 22 percent higher than the rail industry paid at the same time. There is a number of other sectors we could look at that tax rates are similar. Some are higher than the example I just gave you, a few are lower. By far the two largest groups, the interstate highway transportation and the trucking industry, paid a higher rate than the railroad industry.

Chairman Ford. That was in 1983?

Mr. Van Erden. 1983. This is actual data.

Chairman Ford. Do you have any projections as to what 1984 might look like?

Mr. Van Erden. I wouldn't have them by industry. We do know that because of many changes made as a result of the cap in the interest provisions passed last year that tax rates have increased significantly in many States. So I would suspect there would be a significant upward movement, although I would have to give you the actual data on that.

Chairman Ford. All right. The committee, I guess the majority on the committee, they still raise sincere questions about being placed under the States. And if this administration's bill, a bill similar to the administration bill is in the hopper. It is not one that will be reported out of the subcommittee.

Are there alternative recommendations the administration would make trying to make sure we have the solvency that will be needed in the railroad unemployment program?

Mr. Cogan. Mr. Chairman, I do think that what the consensus package highlights is the fact that one will have a very, very difficult time achieving solvency in the RUI fund without transferring it to the States. That comes through loud and clear. They have tried as best they can to come up with a solution. They have had a whole year to do it. Their package is probably one of the best packages the committee will see in the next few months. Yet, it requires a massive bailout. We do not foresee——

Chairman Ford. Well, they indicated, though, that forgiveness on the $150 million in interest, I guess transfer from general revenues. Labor says $135 million; management said $200 million, and want authority to borrow from the general fund. And that would in fact make them solvent.

Mr. Cogan. That is right, Mr. Chairman. And, Mr. Chairman, that solution, to the administration, is simply not acceptable. it does not conform at all, I believe, to the committee's wishes. It certainly does not conform to the administration's general policy. We are very, very concerned about the interest forgiveness to the railroad retirement fund. In the long term we feel that the Railroad Solvency Act we worked together last year to enact was a sound one, and it was a correct one. The consensus package begins to unravel last year's Solvency Act.

Chairman Ford. What happens if we put them under the State system? What about forgiveness on the interest at that point?

Mr. Cogan. We see no reason for forgiving interest to the retirement fund. Mr. Chairman, if we forgive interest to the retirement fund, years down the road when we have our next problem with that fund the rail industry is going to be coming back in here and asking you, Mr. Chairman, and the administration, to rectify your past mistake, which was to forgive interest.

We believe the forgiveness of interest represents bad policy, very detrimental to the long-term interest of the rail sector's retirees, and oppose it most strenuously.

Chairman FORD. Staff has passed me some information here. The 1983 data we just finished talking about does not reflect the 50-percent increase in the rail UI taxes that goes into effect January 1, 1984. Is that correct?

Mr. VAN ERDEN. That is correct.

Chairman FORD. I would hope the information on the updated material that will be submitted to the committee will reflect the increase in UI taxes.

Mr. VAN ERDEN. That is true. Neither does it reflect the tremendous increases in the States taxes, either.

Chairman FORD. The administration criticized the report because of the interest rate assumptions contained in the report. Are those the same interest rate assumptions used by the administration in this fiscal year 1985 budget?

Mr. COGAN. Our intention was not to criticize the rail panel for using those interest rate assumptions that are contained in our budget or based upon those.

Chairman FORD. But they are the same figures used by the administration?

Mr. COGAN. Yes, that is right. But as you know, Mr. Chairman, last year in the Railroad Retirement Solvency Act we emphasized the importance of using alternative forecasts of key variables that drive our out-year projections of costs and benefits.

Chairman FORD. Yes.

Mr. COGAN. We adopted the same approach in resolving the Social Security problem back in 1983. For trust funded programs, Mr. Chairman, we believe that it is very important to use both optimistic and pessimistic assumptions, especially because by the time you get to the out years, the net budgetary ramifications of the two types of assumptions are very different. So we have emphasized continually, and I think this committee has agreed, that it is advisable to present both optimistic and more prudent assumptions.

Perhaps our characterization of the assumptions as imprudent was incorrect, and for that I certainly apologize to the rail panel.

Chairman FORD. All right. I would like to thank you very much.

Mr. COGAN. My pleasure, Mr. Chairman, as always.

Chairman FORD. Thank you very much. If we have any further questions we need you to respond to, we will be happy to send them over in writing.

Thank you very much.

Mr. COGAN. Thank you very much.

Chairman FORD. Next, the Interstate Conference of Employment Security Agencies, Ms. Cheryl A. Templeman, staff associate.

I would also like Mr. Lloyd L. Duxbury, president of the Railroad Retirement Association also to come to the witness table. You won't be testifying together, but I would like you to come to the table at this time.

The Chair will recognize Ms. Templeman.

STATEMENT OF CHERYL A. TEMPLEMAN, STAFF ASSOCIATE, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC.

Ms. **Templeman**. Thank you, Mr. Chairman. I am Cheryl Templeman, staff associate for unemployment insurance with the Interstate Conference of Employment Security Agencies. We represent administrators of the unemployment compensation laws around the country.

I would first say ICESA has not taken a position either favoring or opposing inclusion of the railroad unemployment insurance system with the Federal-State system. My comments will reflect our analysis of the implications for the Federal-State system should Congress decide to do this. This is one small aspect of the rather complicated issue you are facing, but one we consider very important.

Our first concern, as you might imagine, is financial. As you know, the States have debts between $9 and $10 billion held over from the last several sessions. We believe that any plan to bring the railroad system under the Federal-State system should permit the States the flexibility to collect taxes that would cover the benefit outlays for railroad workers. It is very difficult to determine what those costs might be.

We heard a discussion earlier about whether workers would actually be better off or worse off under the Federal-State system. Because of the differences in benefit amounts and qualifying and eligibility requirements, it is almost impossible to make cost projections right now. Because these costs are uncertain, we believe a different way of bringing those workers into the Federal-State system should be considered rather than the one that is in both the railroad plan and in the administration's plan. Both proposals would bring the railroads in at new employer rates. That is, the rates that are paid by most other new employers who go into business in the State. Some of those rates are as low as one-tenth of 1 percent. We are concerned because this obviously would not cover the cost of benefits to railroad workers.

We would propose that for a temporary period of about 3 years, States be permitted to cover the railroads on a reimbursable basis, simply bill the railroad companies for the benefits paid to their former employees.

Chairman **Ford**. Pardon me. Why 3 years?

Ms. **Templeman**. Just to give us enough time to gather some history of what the costs would be. Tying together enough information through experience with those employers to assign them rates that will reflect what their cost will be to the system. Perhaps 2 years might be enough. We would say maybe up to 3 years.

Chairman **Ford**. It wasn't I was opposed to 3. I was just trying to find why there. Was there a magic touch to the number 3?

Ms. TEMPLEMAN. I believe, and I may be incorrect about this, that in order to establish an experience rate for new employers, that one uses a 3-year period.

Chairman FORD. Three-year period. OK.

Ms. TEMPLEMAN. New employers are assigned a new employer rate until the 3-year period is up.

Chairman FORD. Yes.

Ms. TEMPLEMAN. I think that is right. This would be fair to the railroads, we think, because they are naturally concerned about being assessed higher State tax rates that are due to past debts, for repayment of debts which they had no part in incurring. We think this would be a solution that would be fair to everybody concerned.

Our second concern is administrative. The transition to the Federal-State system would require extensive planning and preparation. We don't think that the actual administration once the system was brought under the Federal-State UI system would be difficult, but the transition would require a good deal of work.

The administration, I see, has revised its effective date from January 1, 1985, which is clearly not feasible, to January 1, 1986. We would prefer to see it even perhaps a year further down the road. January 1, 2 years following the year of enactment. We would prefer a January 1 effective date to the July 1 effective date in the rail management proposal. The July 1 date is not totally unworkable. January 1 would be simpler administratively because the tax year is the calendar year for Federal and State taxes. The industry would not have to be treated separately, requiring new forms, computer programs and that sort of thing.

Chairman FORD. Pardon me. Neither the State agencies administering the State plan nor the Governors' Association claim they cannot administratively handle the program by the employees in the new system.

Ms. TEMPLEMAN. I am sorry?

Chairman FORD. We have information State agencies and Govenors' Association both have indicated they could in fact administer the program if it was placed under the Federal-State.

Ms. TEMPLEMAN. Oh, yes. We certainly could do that. The transition would be difficult. We will have to get wages from the past period——

Chairman FORD. But it could be administered?

Ms. TEMPLEMAN. Absolutely. As an ongoing situation, I don't see any particular difficulties with the railroad system as opposed to airlines and so forth.

Chairman FORD. OK.

Ms. TEMPLEMAN. That completes my remarks. I would be happy to answer any other questions.

Chairman FORD. I guess I interrupted you twice. I am sorry about that.

Ms. TEMPLEMAN. That is quite all right.

Chairman FORD. Thank you.

[The prepared statement follows:]

STATEMENT OF CHERYL A. TEMPLEMAN, STAFF ASSOCIATE, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC.

Mr. Chairman and members of the Subcommittee, my name is Cheryl Templeman. I am Staff Associate for unemployment insurance with the Interstate conference of Employment Security Agencies, Inc. (ICESA).

ICESA is the organization of state administrators of unemployment compensation laws and public employment offices throughout the country. We are pleased to have this opportunity to present comments regarding the implications for state unemployment insurance (UI) programs if Congress should decide to phase out the special railroad unemployment compensation program and bring railroad workers into the federal-state UI system that protects other workers

ICESA has not taken a position either favoring or opposing the inclusion of railroad workers in the state-federal UI system. Therefore, my comments will be technical and reflect our analysis of the financial and administrative issues that should be addressed if Congress chooses to transfer unemployment protection for rail workers from the special rail sector program to the regular federal-state UI system.

The primary concern of state UI administrators is financial. As you know, our system is struggling to repay debts of more than $9B that built up during the last several recessions. Any plan to include rail workers under state laws should be flexible enough to permit states to collect taxes from rail employers that are sufficient to pay the cost of benefits received by rail workers.

There is a great deal of uncertainty about the cost of UI benefits to rail workers under state programs. Differences in benefit amounts, qualifying and eligibility requirements, as well as economic factors, make cost predictions difficult. State programs generally provide higher maximum benefit amounts than the $125 maximum of the rail sector program. However, the eligibility requirements of state laws appear to be more stringent than those of the rail program. Due to differences in benefit provisions and in the level of rail unemployment among states, benefit costs could be higher in some states and lower in others.

Both the railroad management plan and the Department of Labor's proposal would bring the rail industry into state programs at the rate paid by other new employers. These rates vary from 1 percent to 5.4 percent. (This compares with the current rate of 8 percent paid by the rail industry.) We are concerned that the state new employer rates would not cover benefit cost under state laws. A possible approach to this problem would be to set initial rates for rail employers higher than rates for other new employers. States are now free to set new employer rates for specific industries higher or lower than the general new employer rate. However, the problem of determining the level at which to set these rates still persists.

A solution that would be fair to all concerned is to permit states the option for three years of simply billing rail industry employers for the cost of benefits paid to their workers. After this time, the state will have enough information about the cost of benefits to rail workers to establish rates for each railroad company based on its own experience with unemployment. In addition to assuring other employers that the railroads will be paying their own way, this option would protect the rail companies from higher tax rates established to repay existing state loans.

During the transition period from the rail sector program to the federal-state program, provisions must be made to assure that state trust funds are reimbursed for benefits that are attributable to wages paid prior to coverage by the federal-state system. Both the railroad management plan and the Department of Labor's proposal provide for this reimbursement.

Our secondary concern is administrative. The transition period from the rail sector program to state programs is likely to be confusing to all concerned. A smooth transition will require extensive planning and preparation. The Department of Labor's (DOL) proposed effective date of January 1, 1985, is clearly not possible in light of today's date. In addition, DOL would permit a second effective date of January 1, 1986, in states where legislative action is required. Our view is that there should be a single date for the changeover—January 1, two years following the year of enactment. Making the change in different years for different states would likely lead to substantial inaccurate reporting of wages. There will be an initial period of sorting out among states where the wages of individual workers should be covered. If some states begin coverage one year and the remainder the following year, it would only add to the confusion and errors.

The rail management plan would make the changeover on the earliest July 1 that would be feasible. This July 1 date was chosen because unemployment benefit years under the rail sector program run from July 1 to June 30. (Most state systems begin a benefit year the week that the individual's first claim is filed.) The rail management's plan would reduce the wage base for both state taxes and federal unemployment taxes by half for the first year because the changeover was made midyear.

There are several administrative problems with a July 1 changeover date. The tax year for both federal and state taxes is the calendar year. Administrative start-up costs would increase because of the exceptional manner that rail employers would be treated—special forms and computer programs to deal with the prorated wage base would be needed. A January 1 date would avoid these complications.

The administrative costs associated with the transition should be made available to states in addition to basic funds for UI operations. The demands on our current level of administrative funds makes it impossible for us to absorb additional responsibilities without an increase in resources.

Mr. Chairman, these comments describe our initial impressions regarding consolidation of the railroad unemployment program and the federal-state system. ICESA views the proposed merger with great interest. We will continue to study this issue and hope to have the opportunity to provide more specific recommendations in the future.

Thank you for this opportunity to present comments on this important matter. I will be happy to respond to any questions you have.

Chairman FORD. Mr. Duxbury.

STATEMENT OF LLOYD L. DUXBURY, PRESIDENT, RAILROAD RETIREMENT ASSOCIATION

Mr. DUXBURY. Mr. Chairman, I am here today representing the Railroad Retirement Association and the members of that association. Of course the members have considerable interest in the railroad retirement fund and it is obvious from what has been said here today that anything done with reference to railroad unemployment insurance, and specifically the debt of RUI to the railroad retirement fund will affect what is available in that fund.

You will recall, Mr. Chairman, that the 1983 law subjected retirees, both those then retired as well as future retirees, to some reductions in benefits. You should know that the pre-1984 retiree group feels strongly that there were some inequities as to them in that law. And they live, I am sure, every day in constant hope that somewhere down the line the Congress will see the inequity of what was done to them and will take the steps to correct it. They are the only ones who got no Social Security increase in 1984 because the January 1 increase on Social Security was deducted from their tier II benefit under railroad retirement and that is a permanent reduction every month for the rest of their lives unless changed by Congress.

I was told by staff that you don't want to get into those issues in this hearing, and I will respect that, although this is much like going to a family reunion of one's in-laws pledged not to get into a fight. But I merely want to submit to you, sir, and to the members of the subcommittee, that what you are being asked to do here through this report is to open up the 1983 law, and to take out parts of it to change those parts.

Retirees have no interest in whether the system is a separate system or a Federal-State system. We don't think it is any of our business. That is a matter to be resolved by the Congress, considering the recommendations of the Labor-Management Committee, and we don't have anything to say about what the benefits should be in railroad unemployment insurance, but we do feel that when you open up this law to get at parts of it, you have to take a look at the whole package, and the report of the committee, in connection with their recommendation, that is, the RUI committee, says this in part:

> Based upon projections by the actuaries of the Railroad Retirement Board, the railroad retirement account should be in a sound financial condition for the foreseeable future including through the year 2000, even though interest is not paid on its loans to the RUI acount.

Now I have underlined the word "should" in my quotation in my statement, because to me it is a significant word. In 1974, when railroad retirement was restructured under agreements made by labor and management, the records are replete with statements that railroad retirement would be in a sound condition from that time forward. When retirees are forced to take cuts in benefits, in what is described to them in the Congressional Record as a private company pension plan system, one to which they made contributions and contributions were made in return for their employment, naturally they feel that it is rough treatment for them.

I recently saw a report from the Railroad Retirement Board on one of the issues involved in the 1983 law, and I won't burden you with that provision, but I think the wording of the report from the Railroad Retirement Board is interesting as compared with the statement in the committee's report, and I should like to just cover it briefly with you. I am quoting from this Railroad Retirement Board report. I think the date of it was July 31.

> Restoration of the offset COLA is not feasible unless revenues are correspondingly increased.
>
> 2. Elimination of the second phase of the COLA offset is extremely risky, unless revenues are correspondingly increased.

I am still quoting:

> The balance of the Railroad Retirement Account at any one time is not a valid measure of the account's ability to absorb a benefit increase.

And if that is true as to a benefit increase, it also must be as to a revenue decrease.

> Financial health of the system will ultimately depend on the number of railroad employees covered by the system. The financial condition of the railroad retirement system is highly uncertain in the longer run. This is so because the future level of railroad employment is uncertain. Amendments which increase cost—

And it must also mean then if they reduce revenues—

> even to a minor extent, let alone in the massive way that either restoration of the offset or elimination of the second phase of the offset would increase them, must be undertaken with extreme caution.

Now I would hope that this subcommittee would obtain from the Railroad Retirement Board a report as to the recommendations in this report from the RUI committee, setting forth exactly what is involved in terms of money, and showing exactly what will be in the fund, if the recommendations of the report are implemented, and what would be there if they were not implemented.

So far as I am concerned—and I am sure that retirees generally feel this way—retirees are not out to break the railroad industry, as I am sure the members of this subcommittee are not, but I feel that there isn't enough information available today to determine what is the equity here.

If it be true that the railroad industry cannot pay the interest to the fund, if the industry just financially cannot do so, that is one set of circumstances. But we are dealing with an issue that has a broad range of possibilities. The range goes from what they have recommended here to principal payment and forgiveness of interest, up to the maximum interest payment, interest amount, and the other variable is the length of time, because if you and I can pay off a mortgage over 25 years, it is probably easier for us to pay it over 25 years than it is over 15 or 10, and that is the reason that most home mortgages today are running for extended periods.

I am not saying that any particular period is a correct period, but I believe that the subcommittee must have a report from the actuaries or from the Board, containing actuaries' reports. If you have not seen, sir, the report that the Railroad Retirement Board gave to Senator Dole under date of July 31, and it was a report which he had recommended or requested, that is a very detailed report, and what it shows is what the interest accumulations are on each deposit into the account over whatever the period is, and in the one we are dealing with, which involved payments of varying amounts over a period of 16 years, the total of the principal payments over the 16 years was $689 million. The amount involved at the end of the period in terms of increased fund assets was $1.27 billion—$1,270 million.

I really believe that the subcommittee should have the benefit of that kind of report, together with the Board's position on what is recommended here.

I have nothing further to say, because everything I have wanted to say really with reference to this is merely to point up the dependence of the railroad retirement fund, it is inextricably tied to the RUI debt, and that has been well enough covered if I hadn't ever been here today.

I also want to emphasize one other thing. There is talk in areas of some concern indicating that some people feel that railroad retirement is nothing more than social insurance. I respectfully submit to you, sir, that statements like that do a disservice to railroad retirees, and really do a disservice to the restructuring of railroad retirement, which this Congress undertook and did in 1973-74, breaking it down into two parts, and firmly making it clear that the second part, tier 2, was intended to be a private company pension plan-type system.

I think it has to be recognized on that basis, in that context, and if anytime I can provide any information with reference to railroad retirees, I shall be glad to do so.

[The prepared statement follows:]

STATEMENT OF LLOYD L. DUXBURY, THE RAILROAD RETIREMENT ASSOCIATION

My name is Lloyd Duxbury. I am here today representing the Railroad Retirement Association and the members of that association, which is an individual membership, non-profit association organized without capital stock under the Code of the District of Columbia, with the members holding full voting power in the conduct of the business of the association. The association is not in any way affiliated with any element of the rail industry or the management thereof nor with any element of rail labor or the management thereof. The association is organized, structured and designed to be governed by and for, and to serve the interests of, only individuals with vested rights in the railroad retirement system, including individuals presently drawing benefits from the system as well as those not yet drawing but who have vested rights which will be exercised in the future. Present membership covers every State and includes retired rail workers who were members of a standard railroad labor union at the time of retirement as well as those who were in the "non-contract" or "exempt" status at the time of leaving railroad employment. Of course, the railroad retirement law makes no distinction between individuals in the two groups as to rights and benefits, as well as, obligations under that law.

I am sure the members of the subcommittee are aware of wide-spread dissatisfaction among the hundreds of thousands of individuals who were dependent on their railroad retirement benefits at the time of the enactment of the 1983 law, the pre-1984 retiree group. I realize that the subcommittee does not want to get into any of the benefit reduction or benefit taxation provisions of that 1983 law and that the subcommittee wants to limit its consideration to the labor-management report on railroad unemployment insurance and to railroad unemployment insurance issues, and to stay away from railroad retirement issues. Therefore, I shall strive to restrain myself accordingly, relying upon the statement submitted on behalf of retirees at the May 3, 1983 hearing before this subcommittee and the Subcommittee on Social Security, and with the expectation that no definitive legislative action on the railroad unemployment insurance report will be taken this year and that there is a good possibility that additional hearings will be held next year before there is definitive legislative action.

The recommendations of the labor-management report, which is the subject of this hearing, are of no concern to railroad retirees except in so far as they impact and affect the railroad retirement fund. The impact of the debt of the railroad unemployment insurance (RUI) fund to the railroad retirement fund is acknowledged in every treatise, document, report and analysis dealing with the railroad retirement system. It's not realistic or possible to discuss or explain the railroad retirement system or that system's fund without getting into the RUI debt.

The February 18, 1983 report of the Railroad Retirement Board pursuant to section 22 of the railroad retirement law, which report set in motion the machinery which produced that 1983 law, emphasized the importance of the RUI debt to the railroad retirement fund by this warning: "From the point of view of the retirement account, loans to the unemployment insurance system should be disallowed after September 30, 1983." The figures in that report show clearly that but for that debt retirees would not have been threatened with a 40 percent across the board cut in their tier II benefit in 1984.

In its March 9, 1983 report No. 98-30 part 1 on HR 1646 the House Committee on Energy and Commerce said: "In such a situation, to permit the unemployment insurance account to continue borrowing from the retirement account would have the effect of requiring railroad retirement annuitants, through annuity reductions, to finance a portion of the unemployment and sickness benefits payable under the Railroad Unemployment Insurance Act."

Whether one likes it or not, unless and until that RUI debt is paid, the railroad retirement system and the condition of its fund will remain inextricably entangled with RUI debt and projected increases in its total were major factors in the congressional hearings on HR 1646 in 1983 and in the changes made in the bill before final enactment as Public Law 98-76. It was obvious that OMB's primary objection to the original bill were the provisions which would have shifted the RUI debt from the railroad retirement fund to the Federal Treasury and would have made OMB and the Federal Treasury the new banker for RUI in place of the railroad retirement fund. The final version enacted into law was supported by OMB because (1) those objectionable provisions were removed and the railroad retirement fund was retained as the current and future banker for RUI, and (2) provisions were added imposing taxes for the repayment of the RUI debt with interest as provided by law and establishing a cut off date for increases in that RUI debt. Those provisions are an integral part of what is not Public Law 98-76, as are the provisions thereof reducing benefits of those who are dependent on the railroad retirement fund for retirement income.

The labor-management committee report before you today is asking you to pull out and change parts of that package, integral parts, parts which will affect the amount of money in the railroad retirement fund available for payment of benefits.

I respectfully submit that it is not possible to deal with those particular recommendations without taking into consideration the whole of Public Law 98-76 as a package. It has been said that that 1983 law involves "sacrifices" by each group affected and that the "sacrifice" by one group is a "trade off" for the "sacrifices" by the other groups. This involves equities and the way each equity relates to the other equities.

You should know that pre-1984 rail retirees feel that they were not treated equitably in that 1983 law (in keeping with the commitment made at the start I am not going to go into the details of that inequity), that there are provisions of that 1983 law which they feel, in all equity, should be changed, and that pending in the House at the present time are at least two bills which would ameliorate some of the inequity of that 1983 law for that pre-1984 group.

How would the recommendations in the labor-management RUI report affect the "sacrifices" and the "trade off" of "sacrifices" under that 1983 law? What effect will the implementation of those recommendations have on the railroad retirement fund during the 1986 to 2000 year period? The report says: "Based upon projections by the actuaries of the Railroad Retirement Board, the railroad retirement account should be in a sound financial condition for the foreseeable future, including through the year 2000, even though interest is not paid on its loans to the RUI account." (That quote appears on page 3–8 of that report—the underlining of the word "should" is mine). So far as I can determine, the report does not contain the projections by the actuaries of the Railroad Retirement Board upon which the above-quoted statement is based. I assume that the subcommittee will obtain from the Board its report on the recommendations of the RUI committee and that that report will contain the Board's actuarial projections for the railroad retirement fund up through the year 2000 so that the subcommittee will be able to compare fund balances if the recommendations of the RUI report are implemented with what the fund balances would be if the changes in the law recommended in the report were not made. The Railroad Retirement Board recently reported to a United States Senator on certain provisions of that 1983 law which apply to only the pre-1984 retiree group and which that group feels is inequitable as to them. Those are the provisions which permanently reduced the amount of the tier II benefit of pre-1984 retirees by the amount of the Social Security COLA on January 1, 1984, thereby adding about $11 million per month to the railroad retirement fund. Under those provisions those pre-1984 retirees will not receive the full Social Security COLA on January 1, 1985; and additional permanent cut will be made in the amount of the tier II railroad retirement benefit of that pre-1984 retiree group, and only that group, thereby adding another $4 to $5 million monthly to the fund.

The Railroad Retirement Board's opinion as to those provisions of that 1983 law cutting the amount of the tier II benefits of pre-1984 retiree group is stated in that report as follows:

"1. Restoration of the offset COLA is not feasible unless revenues are correspondingly increased.

"2. Elimination of the second phase of the COLA offset is extremely risky unless revenues are correspondingly increased.

"The balance of the railroad retirement account at any one time is not a valid measure of the account's ability to absorb a benefit increase. The financial health of the system will ultimately depend on the number of railroad employees covered by the system. . . . The financial condition of the railroad retirement system is highly uncertain in the longer run. This is so because the future level of railroad employment is uncertain. Amendments which increase costs (reduce revenues?) even to a minor extent, let alone in the massive way that either restoration of the offset or elimination of the second phase of the offset would increase them, must be undertaken with extreme caution."

The parentheses and the words therein were added for emphasis.

According to that report the second cut in the amount of the tier II benefit for that pre-1984 retirees starts at $56 million in the year 1985 and gradually reduces in annual amount to $28 million in the year 2000. The unavoidable reason for the annual reduction is obvious. The total over the 16 year period from 1985 through the year 2000 is $689 million. According to the Board's report, the elimination of the second cut would reduce the balance in the railroad retirement fund by $1.27 billion by the end of the year 2000. Of course, of that total $689 million is the principal amount and the balance, $581 million, is the amount of interest that would be earned on each of the annual amounts involved over that 16 year period.

I assume that a report from the board to the subcommittee on the recommendations in the RUI report will contain a similar financial analysis of the cost of those recommendations.

I respectfully re-emphasize: The railroad retirement fund is inextricably involved with the RUI debt; the resolution of that debt unavoidably involves and affects the railroad retirement fund, and rights and interests in that fund and the inequities and equities under the 1983 law.

I respectfully emphasize also that railroad retirement is not "social insurance", that it was restructured by the Congress in 1973–74 to make the tier II portion of railroad retirement like a private company pension plan and that it would be unfair to the hundreds of thousands of railroad workers who are and will be dependent on the railroad retirement to deal with it on any basis other than as a private company pension plan.

The opportunity to appear before your subcommittee today is most appreciated.

Mr. DUXBURY. I want to mention one thing else. Have you read Mr. Myers' book on Social Security, sir?

Chairman FORD. No, I have not.

Mr. DUXBURY. I don't have any arrangements for a commission from him, but when I heard he was going to be on the committee, I wanted to find out what kind of a jigger he was, how he thinks, and so I bought his book.

Chairman FORD. What did you think about the book?

Mr. DUXBURY. Well, the book is a good book. I have only two criticisms of it.

Chairman FORD. You don't have to tell us those.

Mr. DUXBURY. I won't mention those here. But in spite of those, I would recommend that you buy the book, sir. It is significant that he does cover, in a separate chapter, railroad retirement; he covers the railroad unemployment insurance system; and of course he deals with the dependence between railroad retirement and the railroad unemployment insurance debt, and I recommend it.

Chairman FORD. Well, the subcommittee, if we have not received the Retirement Board's report as it relates to some of the items that you have made mention of, if the committee is not privy to it I would certainly make the request of the staff.

Mr. DUXBURY. The report I am talking about has nothing to do with the railroad unemployment insurance issue. It was on a separate issue in the 1983 law.

Chairman FORD. Talking about the Retirement Board report?

Mr. DUXBURY. The report to which I referred was directed to Senator Dole.

Chairman FORD. Let me understand you clearly on the forgiveness of this $150 million in interest. You speak for the association, for the Railroad Retirement Association. Am I understanding you correctly that you are saying that we need, from a subcommittee level, to make sure that we understand what the Railroad Retirement Board is saying, and what the membership is saying as it relates to forgiveness?

Mr. DUXBURY. No, Mr. Chairman, that isn't what I meant. I meant that you should have the benefit of a report which states and shows clearly what amounts of money are involved in interest over the period of time involved as well as what is involved in fund balances over the period of time involved.

Chairman FORD. Not just the $150 million we are talking about. We should see what type of money we are talking about over the period of 16 years; is that correct?

Mr. DUXBURY. Yes. There are two items in addition to principal. One is the item of interest, if any, if required to pay interest on the debt. That is one item of interest. The other item of interest is what the accumulated balances are in the railroad retirement fund of the principal plus the interest, and if there is no interest, then you come down to the question of what are the accumulated balances in the fund of the principal less the interest, if no interest is paid, because there are really two items of interest: One is the interest that is charged on the debt, if any, and that is a matter of policy to be decided by the Congress. And the other is what the balances are in the fund, based upon payments over a period of time.

Chairman **Ford**. In other words, if we consider the $150 million interest forgiveness, that we ought to know exactly the total impact——

Mr. **Duxbury**. Right.

Chairman **Ford** [continuing]. That it will have on the system?

Mr. **Duxbury**. Yes.

The question is whether it is in fact $150 million to start with, and then what the total impact is over the whole 15-year period, because I don't think the 15-year period, in terms of repayment, is in cement. The Congress established that figure, and if it should be that a different year period is more sensible or equitable or needed, the Congress, of course, has the ability to change that as well. It isn't any more fixed than is the interest rate in terms of Congress' ability to deal with it. It can change it as it sees fit.

[The following was subsequently received:]

The Railroad Retirement Association,
Washington, DC, September 19, 1984.

Hon. Donald J. Pease,
House of Representatives,
Washington, DC.

Dear Congressman Pease: At the hearing yesterday on the RUI Committee Report you had a discussion with Mr. Myers about the provisions in the 1983 law for the repayment of the RUI debt to the Railroad Retirement Fund. Mr. Myers had made the point covered by the following sentence in his prepared statement: "This represents a distinct improvement over present law, where the repayment tax does not even take care of the outstanding principal, let alone any interest thereon."

I would like to call to your attention Title VII of House Ways and Means Committee Report 98-30 Part 2 of HR 1646, and in particular the last full sentence at the bottom of page (39) and the next sentence starting at the bottom of page (39) and concluding on page 40:

"Equally important, the imposition of the repayment tax contained in this section demonstrates the intent of the Committee on Ways and Means to insure and, if necessary, provide for the repayment of all loans from the retirement account. Should the RRUC Committee established by section 413 fail to provide an acceptable alternative procedure for the repayment of outstanding loans, it is the intent of the Committee on Ways and Means to make the repayment tax contained in this section permanent, as well as make other necessary modifications that will assure repayment of all RRUC debts by the end of the year 2000."

I did not have the opportunity to bring this to your attention at the Subcommittee hearing yesterday, and the hearing ran so late I was not able to do so after the hearing.

Sincerely,

L. L. Duxbury, *President.*

Chairman **Ford**. Thank you very much. I thank both witnesses.

The Chair would like to announce that this will conclude the Public Assistance and Unemployment Compensation Subcommittee on Ways and Means Report on the Railroad Unemployment Compensation Committee. We conclude these hearings this afternoon.

At this point I would like to ask staff, would they be kind enough to make the request that Mr. Duxbury has already brought out before the committee. I would like to be privy to the information from the Railroad Retirement Board, and also any additional information from the committee and which is reported back to the subcommittee today as it relates to the $150 million in interest payments, and the impact and the effect of all of that.

With that, we will conclude our business for the day. The meeting now stands adjourned.

[Whereupon, at 5 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

STATEMENT OF THE ASSOCIATION OF AMERICAN RAILROADS AND THE NATIONAL RAILWAY LABOR CONFERENCE UPON THE TESTIMONY OF JOHN F. COGAN, OFFICE OF MANAGEMENT AND BUDGET

This statement has been prepared in response to the written testimony of John F. Cogan, Associate director for Human Resources, Veterans, and Labor, Office of Management and Budget, submitted on September 18, 1984 to the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means. That testimony was submitted during hearings upon the Report of the Railroad Unemployment Compensation Committee, established pursuant to Section 504 of the Railroad Retirement Solvency Act of 1983 (P.L. 98-76) to review the railroad unemployment insurance system and to submit recommendations for legislation resolving the problems of the RUI system. Mr. Cogan and his associates have been courteous and candid throughout our prior discussions of this subject, and we have no doubt of their dedication to a fair and effective solution. We were, therefore, especially disappointed to find that OMB's treatment in its testimony of critical facts is neither objective, accurate, or complete.

Because we did not have an opportunity to review the OMB testimony before the Subcommittee hearings, and because of the serious deficiencies in that testimony that are discussed below, the following comments on the written testimony presented by Mr. Cogan have been prepared for inclusion in the hearing record. We have included an executive summary of our comments, followed by a more detailed statement.

EXECUTIVE SUMMARY

1. OMB incorrectly portrayed the RUI system as having been "insolvent" for more than 20 years because of persistent structural problems that are beyond rational repair.

In fact, RUI encountered no serious financial difficulties prior to the 1981-83 recession. Loans received from the Railroad Retirement Account were repaid in full with interest, and merely served their normal function of preserving steady benefit and tax levels despite fluctuations in the unemployment rate.

At the end of 1978, following the 1975-78 recession, RUI had no outstanding loans. In contrast, many of the State UC systems were heavily in debt to the Federal government.

Thus, it was the severe depression and other developments beyond the control of the railroads in the 1981-83 period that caused the current financial crisis in the RUI program, and not "persistent, structural underfunding" as asserted by OMB (Testimony at 5). Railroad employment decreased by over 20 percent, while total unemployment benefits paid more than tripled between 1981 and 1983. Yet, OMB's statement makes no mention of that recession and its unprecedented impacts upon the RUI system.

2. OMB mischaracterized or misrepresented important elements of the "consensus package" recommended by the RUC Committee, and grossly understated both the increases in RUI taxes and the reduction in benefits that would result from that proposal and the 1983 unemployment compensation legislation.

The proposal to forgive interest on the RUI debt cannot fairly be characterized as "robbing Peter—the pension fund—to pay Paul—RSUI" (OMB Testimony at 21). The revenues for both accounts come from the same source, railroad employer and employee payroll taxes, and the solvency of the pension fund would not be imperiled. Payment of that interest was not assumed in the forecasts underlying the provisions of the Railroad Retirement Solvency Act of 1983 intended to restore the solvency of the railroad retirement system, and the Congress in that Act (Sec. 502) envisaged the possibility that Tier II railroad retirement taxes "should be diverted to the railroad Unemployment Insurance Account to aid in the repayment of its debt to the Railroad Retirement Account."

The proposed interest forgiveness and the one-time Federal grant would provide assistance to the RUI system and the railroad industry to recover from the 1981-83 recession comparable to that afforded State UC systems and covered industries in regard to the 1975-78 and 1981-83 recessions by Federal assistance including interest-free loans, suspension of Federal loan-repayment procedures, and deferrals or reductions of interest payments.

OMB incorrectly asserted that "the American taxpayer also is supposed to pay for RSUI solvency" (Testimony at 21), and that "the net contribution of rail employers and employees is 10 percent" (Testimony at 23). OMB failed to include the 50% increase in RUI taxes enacted last year; and it gave no weight to provisions in the consensus package that keep RUI benefits at a relatively low level as compared to State benefits and that, by indexing by only two-thirds of increases in average wage levels, will assure that future benefits are kept to an affordable level. If maximum State benefits had been similarly indexed between 1970 and 1984, the average maximum in 1984 would be some 36% lower. In addition, the consensus package would further increase maximum RUI taxes by another 50% and would substantially curtail benefit costs by a tightening of qualifying standards.

The modified repayment tax recommended in the consensus package would not "reverse the solvency measures" enacted in 1983 to provide a "give back" to the railroads as asserted by OMB (Testimony at 21). Rather, the repayment tax enacted in 1983 which was limited to a five-year period would be replaced by a 15-year repayment tax that would substantially increase total tax revenues and assure repayment of the principal of the debt by the year 2000 as directed by the Congress in the 1983 Act.

3. OMB supported enactment of the Administration's proposal (H.R. 6068) for merging the RUI system into the Federal/State UC system without providing any information on its impact on the railroad industry or justification for its declaration that it is a "fair and equitable" proposal.

OMB provided no estimate of how much the Administration's proposal would increase unemployment taxes paid by the railroad companies.

Under the proposal, the railroads would be required to pay the entire cost of the transition, to repay all loans with interest, and at the same time pay full State and FUTA taxes, including taxes used to repay loans made to the States before the merger. In addition, railroads would continue to pay the 8 percent maximum RUI tax and the repayment tax enacted by the 1983 legislation.

This amounts to several years of double taxation and a unemployment tax burden that is completely unreasonable. The Administration's proposal would be much more costly to the railroads than continuation of the RUI system as revised by the consensus package.

4. Comments by OMB about the unemployment assumptions utilized by the RUC Committee are misleading, and the assumptions OMB suggests are unreasonable.

The RUC Committee concluded that it was prudent to base its estimates on Employment Assumption II (which assumes a 3 percent annual decline in railroad employment), even though it is more pessimistic than the Committee's "most likely" estimate. OMB incorrectly labeled Employment Assumption II as the Committee's "best guess" assumption.

OMB labeled as "prudent" Employment Assumption III which assumes a catastrophic 5 percent annual decline in railroad employment, under which railroad employment would be reduced by more than half in some 15 years.

The RUC Committee utilized OMB's interest rate assumptions. In criticizing the report of the RUC Committee, however, OMB shifts from its own interest rate assumptions to Congressional Budget Office assumptions.

It is imperative that all interested parties make an effort to agree on the data and assumptions that will be used in future Congressional deliberations on proposed changes in the RUI system.

BACKGROUND INFORMATION

The OMB testimony seeks to create an impression that the RUI system has been insolvent for more than 20 years and cannot be mended. In fact, the system did not encounter serious financial difficulty prior to the 1981–83 recession.

OMB quotes the Congressional Research Service (CRS) as "pointing out that the RSUI system 'is insolvent and has been for 18 of the last 23 years,'" and says that "CRS recently updated this to '19 of 24' years" (Testimony, at 2). To be sure, in a CRS paper entitled "Railroad Unemployment Insurance: Growing Debt to Retirement Program" (Issue Brief Number IB84069, updated 3/13/84, at p. 6), Richard Hobbie and Dennis W. Snook point out that "[t]he RUI program has been in debt to the retirement program in 19 of the last 24 years." But there is a difference between being "in debt" and being "insolvent." If OMB's test were adopted, practically every business in America would be considered insolvent every year of its existence as would each family with a mortgage on its home.

The facts are set forth in Table 4, Appendix D, to the Report of the RUC Committee. (A copy of this table is attached.) A debt which amounted to about $314 million as of the end of FY 1963 was gradually paid off (with interest) until extinguished in FY 1974. A debt of about $46 million as of the end of FY 1977 had been paid off (with interest) by FY 1979. In short, during the 1959–1980 period, the borrowing authority of the RUI Account simply performed the function that it was intended to perform. Despite the volatile nature of the unemployment rate, benefits continued to be paid, and such borrowings as were necessary for that purpose were repaid with interest. The peaks and valleys in unemployment in effect were smoothed out insofar as benefit and tax levels were concerned, and insofar as we are aware, neither OMB, CRS nor anyone else suggested at the time that the necessary borrowings denoted the "insolvency" of the RUI system.

OMB's efforts to portray a "chronic, structural financial crisis" in regard to the RUI system (Testimony at 2) are advanced in support of the Administration's proposal to place the railroad industry under the Federal-State unemployment compensation system. However, while there are considerations supporting such a step, that argument is not one of them. A comparison of the experience of the RUI system with that of state UC systems over the years shows that, on a long-term basis, the financial solvency of the RUI System compares favorably with that of many of the State systems.

During the 1970's and early 1980's, because of the 1975–78 and 1981–83 recessions, a number of States were forced to borrow large amounts from the Federal Unemployment Account in order to continue paying State benefits. For example, at the end of 1978, Illinois had $947 million in outstanding Federal unemployment loans, and this increased to $2.4 billion by the end of 1983. Michigan owed $624 million at the end of 1978 and $2.3 billion by the end of 1983. Pennsylvania owed $1.2 billion at the end of 1978 and $2.6 billion at the end of 1983. Also, the Federal unemployment trust fund had borrowed $12 billion by the end of FY 1980, and this had increased to $20 billion by the end of FY 1983, in order to pay the Federal share of extended benefits and provide unemployment loans required by many States. Not only were these loans prior to April 1982 interest free, but the State repayment provisions contained in the Federal law were suspended from 1975 to 1980 because of the difficult financial problems confronting many States. In addition, provisions enacted in 1981 and 1983, under certain conditions, limited State repayment amounts and reduced or deferred State interest payments (without interest accruing during the deferral period) on outstanding Federal unemployment loans.

As stated above, the RUI program had repaid all outstanding loans by the end of 1978. At the end of 1978, however, 18 States owed the Federal government a total of $5.1 billion for unemployment compensation loans they had received. The total amount of money the RUI program borrowed from the rail pension fund from 1970 to 1980 amounted to 0.35 percent of total wages paid during the years it borrowed. The amount of outstanding RUI borrowings in 1977 equaled 0.5 percent of total wages for that year, and the loan balance in 1978 equaled 0.3 percent of total wages. Comparatively, by the end of 1978, the amount of outstanding Federal unemployment loans to Connecticut equaled 3.0 percent of total annual wages in that State. Illinois' loan balance equaled 1.8 percent of total wages, Michigan's was 1.5 percent, New Jersey's was 2.3 percent, Pennsylvania's was 2.7 percent, and Rhode Island's and Vermont's was 3.2 percent.

These figures demonstrate that at the end of the 1970's, following the harsh 1975–78 recession, the RUI system, which had no outstanding loan balance, was in better financial condition than a number of State UC systems.

It is true that the severe recession and other developments beyond the control of the railroads that occurred during the 1981–83 period created a financial crisis in the RUI program. As a result of the 1981–83 recession, plus the delayed unemployment effects due to federal legislation relating to the prior bankruptcies of the Milwaukee and Rock Island railroads and the predecessors of Conrail, average railroad employment decreased more than 20%, from 503,000 in 1981 to 398,000 in 1983. Unemployment benefit outlays increased from $122 million for benefit year 1979–80 to $387 million for benefit year 1982–83. See Tables 3 and 7, Appendix D to RUC Committee Report. Unprecedented unemployment outlays, together with the high interest rates charged on loans that were necessary to meet unemployment costs, resulted in a debt to the Railroad Retirement Account in the amounts of $115 million as of the end of FY 1981, $286 million as of the end of FY 1982, $575 million as of the end of FY 1983, and an estimated $671 million as of the end of FY 1984. The RUC Committee estimates that only under Employment Assumption I will that debt be repaid by the end of the year 2000 if current law is not changed. Under Employment Assumption II, the estimated debt as of the end of the year 2000 is $1.564 billion and under Employment Assumption III it is $2.392 billion, again assuming no change in current law. See Table B, Appendix E, to Report.

In sum, the 1981–83 recession had the same devastating impact on the RUI program that this recession and the earlier 1975–78 recession had on many of the State UC programs. Prior to the 1980's, RUI had operated without major problems. In fact, if it were not for the 1981–83 recession, which created unprecedented financial problems for RUI, there is little likelihood—we think none—that Congress would be considering major changes in the program or merging it into the Federal/State system. In these circumstances, the failure of the OMB Statement to note the most recent recession and its extraordinary impact on railroad employment in explaining the current financial problems facing RUI is, to us, incomprehensible as well as misleading.

THE "CONSENSUS PACKAGE"

In its statement, OMB characterizes the "consensus package" recommended by the RUC Committee as "robbing Peter—the pension fund—to pay Paul—RSUI," and states that, under this proposal, "the American taxpayer also is supposed to pay for RSUI solvency." (Testimony at 21.) This characterization appears to be based on OMB's objection to several provisions contained in the "consensus package," including the forgiveness of interest on the debt owed by the RUI Account to the Railroad Retirement Account, a one-time grant from the Federal government to the RUI Account, and the authority for RUI to borrow from the Federal government when necessary to meet unemployment costs. As we shall show, OMB's characterization of the "consensus package" is misleading and inaccurate. In addition, OMB's statement overlooks other provisions contained in the "consensus package," misrepresents the changes made in the loan-repayment tax enacted in the Railroad Retirement Solvency Act of 1983, and underestimates both the amount of the increased taxes and reduction in benefits that would result from this proposal and the 1983 legislation.

With regard to the proposal to forgive the interest on the RUI debt, the central point that OMB persists in ignoring is that we are talking about the debt one railroad account owes another railroad account. The revenues for both accounts come from the same source: the railroad industry through payroll taxes paid by railroad employers and employees. Accordingly the critical question should be whether forgiveness of the interest would significantly imperil the solvency of the Railroad Retirement Account. If not, then such forgiveness in effect would constitute a reasonable and prudent use of railroad indutry taxes for a more necessary purpose.

The members of the RUC Committee concluded that the solvency of the Railroad Retirement Account would not be significantly imperiled by the forgiveness of interest which they recommend. This was the conclusion not only of the management and labor members, but also of the Committee's distinguished chairman and neutral member, Robert J. Myers. The actuarial experience and reputation of Dr. Myers can hardly be surpassed, and include an important role in the recent reform of the social security system that is well known to this subcommittee. As OMB graciously acknowledged (Testimony at 20), his "efforts on this [the RUC Committee] and other important issues exemplify the finest of American traditions: a strong devotion to public service."

It is not surprising that the Railroad Retirement Account now is sufficiently solvent to permit that conclusion when one realizes that the assumptions underlying the forecasts utilized during consideration of the Railroad Retirement Solvency Act of 1983 did not include payment of interest on the debt owed by the RUI system. Moreover, the employment assumptions utilized in that regard already are proving to be much too pessimistic. They ranged from a high of 385,000 in 1983 and 370,000 in 1984 to a low of 360,000 in 1983 and 310,000 in 1984, while in fact railroad employment averaged 398,000 in 1983 and it now seems clear that average employment will exceed 400,000 in 1984.

The possibility that the 1983 Act could result in excess railroad retirement tax revenues that appropriately could be utilized in repaying the debt owed by the RUI system was recognized by the Congress when it provided, in Sec. 502 of that Act, for reports on the actuarial status of the railroad retirement sytem including whether "any part of the" Tier II railroad retirement tax "should be diverted to the Railroad Unemployment Insurance Account to aid in the repayment of its debt to the Railroad Retirement Account." In effect, that is precisely what the proposed forgiveness of interest would do. This seems simpler than an express revision of the Tier II tax so as to divert the necessary portion of the proceeds to the RUI Account, but the railroads have no objection to such legislation if that course is preferred by the Congress.

In short, the recommended forgiveness of interest is not "robbing Peter to pay Paul" but rather is the prudent utilization of revenues from payroll taxes paid solely by the railroad industry for a purpose for which they are needed instead of one for which they are not needed. No other taxpayers will be affected in any way, and the solvency of the railroad retirement system will continue to be assured at least through the year 2000.

With regard to the recommended, one-time grant, it is an act of belated equity to the RUI system. Prior to April 1, 1982, the State UC systems could obtain interest-free loans from the General Fund through the Federal Unemployment Account. And, as mentioned above, current law provides for deferral and reduction of interest under certain specified conditions. Furthermore, even now no interest is payable on loans from the General Fund to the Extended Unemployment Compensation Account for use in funding the 50% Federal share of extended unemployment benefits paid by the State systems. The interest-free loans, the suspension of Federal loan repayment provisions in the 1970's, and the cap on repayment levels and interest-deferral provisions enacted in the early 1980's have helped State UI systems and covered industries to recover from the 1975–78 and 1981–83 recessions. The primary justification for a one-time Federal payment from the General Fund proposed in the RUC Committee's recommendations is the same: to provide equal treatment of the RUI system and the railroad industry so as to assist recovery from the 1981–83 recession.

OMB in its testimony does not suggest that the justifications for the one-time Federal payment contained in the RUC Committee Report (see pages 3–21 to 3–24 and 4–16) do not exist or that the amounts recommended are unreasonable in themselves. It does refer to the consensus package as relying "heavily on further Federal subsidies and borrowing" (Testimony at 23), but if that was intended as a criticism, it was not developed. In any event, a one-time equalization payment can hardly be described as a "subsidy" in any pejorative sense.

The borrowing authority recommended in the consensus package obviously is an essential feature of any rational unemployment compensation system. Some type of borrowing authority is necessary to maintain benefit and tax levels on a relatively even keel despite temporary swings in the unemployment rate. The basic borrowing authority recommended in the consensus package would approximate that now afforded to the State systems, including the interest payable, except that even stronger assurances of repayment would be provided and interest would be payable on any and all amounts borrowed. See RUC Committee Report, at 3–24.

One of the most striking misstatements by OMB is that "[o]ver the entire forecast period (1985–2000) fully 90% of the package's financial solution comes from the rail pension fund and the general fund" so that the "net contribution of rail employers and employees is 10 percent" (Testimony at 23). In the first place, as indicated above, the forgiveness of interest owed to the "rail pension fund" is a "contribution of rail employers and employees" who pay the taxes that fund the Railroad Retirement Account. Beyond that, however, OMB's calculation obviously ignored the 50% increase in railroad unemployment taxes resulting from the increase in the monthly taxable wage base from $400 to $600 that was enacted last year as part of the Railroad Retirement Solvency Act of 1983. The OMB testimony refers to this tax increase as one of the "initial steps to stem the financial hemorrhage in the RSUI fund" (Testimony at 2), but then neglects to include it in its calculation of the railroad industry's efforts to deal with the RUI financial problems. In addition to last year's tax increase, the consensus package recommendations would increase the maximum tax rate from 8% to 12%, for another compounded 50% increase in maximum railroad unemployment taxes, with the actual rate (subject to the maximum) being determined by experience rating.

The RUC Committee's recommendations would modify the repayment tax enacted in 1983 so that this special tax would repay the principal of the debt to the Railroad Retirement Account by the end of the year 2000 at the latest. OMB criticizes the modified repayment tax as one which "would actually reverse the solvency measures" enacted as part of the Railroad Retirement Solvency Act of 1983, asserting that "between $60 million and $190 million of revenues by 1990 could be 'given back' to rail management under this 'consensus' package" (Testimony at 21). In fact, nothing would be "given back" to rail management. Under the RUC Committee's recommendations, the railroads would pay an additional tax which would be evenly spread over a 15-year period, rather than, as contained in the 1983 law, a repayment tax limited to a five-year period. While the tax rate would be lower under the RUC Committee's recommendations, the total taxes would be much larger. This modified repayment tax was developed in response to the directive in Sec. 504 of the 1983 Act that the RUC Committee recommend means for repaying the loans from the Railroad Retirement Account "before December 31, 2000." It is designed to repay all principal of the debt by 2000 while slightly easing the very heavy unemployment tax burden that would be imposed upon the railroads during the next few years.

In addition to drastically understating the increased unemployment taxes that will be paid by the railroads as their contribution to restoring the solvency of the RUI Account, OMB does not appear to have given any weight to the fact that the consensus package, which the employee representatives joined in recommending would continue to limit the maximum RUI benefits to a relatively low level as compared to most of the State systems. In the testimony, OMB recognized the RUI "benefits have been frozen at $25 a day since 1976, and 42 states—covering some 85 percent of all railroad workers in 1982—now provide higher maximum weekly payments than RSUI" (Testimony at 10). The consensus package would increase the daily maximum by only two dollars—to $27—immediately, and would restrain future increases by indexing the $25 amount by only two-thirds of the increase in average wages.

A $27 daily benefit is equivalent to a $135 weekly benefit, while the average weekly benefit payable by the State UC systems in January of 1984, as weighted by railroad employment in the various States, amounted to $160.70. In view of that fact and the further fact that RUI benefits have not been increased since 1976, the proposed $2 increase in the existing maximum daily benefit clearly is both a modest and defensible increase.

The proposed two-thirds indexing (which will be supporting by a comparable indexing of the taxable wage base) also is a substantial, and indeed in our view critical, element in assuring that the solvency of the RUI system will be restored and preserved. Obviously, two-thirds indexing is preferable from a financial point of view to the 100% indexing utilized by the State UC systems that index benefit levels and for such purposes as social security and Tier I railroad retirement benefits. And, we are convinced that in the long run it will result in lower total benefit costs than would a system of occasional, but relatively large, increases which is likely to occur if some indexing is not provided. Two-thirds indexing would have saved the State systems substantial money. For example in 1970 the average maximum weekly benefit paid by the State systems (unweighted) was $52.35 and average weekly earnings were $119.83; while in January of 1984, the average maximum weekly benefit was $161.67 and average weekly earnings were $289.10. If the 1970 average maximum benefit had been indexed by two-thirds of the increase in average weekly earnings, the average maximum benefits in January of 1984 would have been $103.61, or some 35.9% lower than the actual amount. Moveover, the gradual increases afforded through a statuory indexing procedure should avoid the necessity of future resorts to the Congress for legislated specific increases.

In addition to thus providing reasonable assurances of an affordable level of unemployment benefits not only now but for the future, RUI qualifying standards will be tightened in some important respects if the consensus package is adopted. This would reduce the total benefits otherwise payable by over 11 percent.

THE ADMINISTRATION'S PROPOSAL (H.R. 6068)

While, as indicated above, we believe OMB's criticisms of the consensus package are unwarranted, its recommendations for legislation merging the RUI system into the Federal/State UC system are even more disappointing to the railroads.

In testimony before this subcommittee last year, Director Stockman of OMB expressed concern that continuation of the RUI system might necessitate additional unemployment taxes which would "end up doing a fairly severe damage to the [railroad] industry," and further testified that: "Well, as I said, there is nothing wrong in principal with full financing of the existing system with an adequate tax rate. But as I looked at the tax rate that would be necesary to finance the existing rail UI system, I concluded that a phased merger with the Federal/State program is more reasonable in terms of the economic burden on the industry." (Hearings on the Railroad Retirement Solvency Act of 1983: Retirement and Unemployment Insurance Issues [May 3, 1983], at 304, 307–08.)

The railroads fully support the principle of a "phased merger with the Federal/State system" that "is more reasonable in terms of the economic burden on the industry." This is not the case, however, with the Administration's proposal (H.R. 6068) that was advocated by OMB in its testimony. The OMB testimony provided no estimate of how much that proposal would increase unemployment taxes paid by the railroad companies. OMB simply declared that the proposal would be "fair and equitable." It is obvious, however, that the Administration's proposal is completely unreasonable in terms of the unemployment tax burden it would impose on the railroads, and that it would be much more costly to the railroads than continuation of the RUI system as revised by the consensus package.

Under the Administration's proposal, the railroads would be required to fund all of the costs of the transition, to repay with interest all loans from the Railroad Retirement Account, and at the same time to pay State and FUTA unemployment taxes, including taxes used to repay loans made to the Federal/State system prior to the merger with the RUI system. For years to come, the railroads, in effect, would be subject to double taxation. In addition to paying full State and FUTA unemployment taxes, the railroads also would pay the 8% maximum RUI tax and repayment tax enacted by the Solvency Act.

This is precisely the kind of unreasonable burden that will "end up doing a fairly severe damage to the industry," the type of economic damage that was of concern to OMB last year. If H.R. 6068 is the alternative, the railroads wholeheartedly support enactment of the consensus package recommendations.

ECONOMIC ASSUMPTIONS

The comments in the OMB testimony about the unemployment assumptions utilized by the RUC Committee are misleading, and the assumptions OMB suggests are unreasonable. Of the unemployment assumptions available to the RUC Committee, even Employment Assumption I is somewhat pessimistic, assuming an average decline in railroad employment of one percent per year through the year 2000 (from 400,000 in 1984 to 340,000 in 2000). Employment Assumption II posits an average decline of three percent per year (from 400,000 in 1984 to 242,800 in 2000), and Employment Assumption III posits an average decline of 5% (from 400,000 in 1984 to 176,000 in 2000).

The RUC Committee concluded that "the 'most likely' estimate is somewhere between employment Assumptions I and II." While the Committee assured itself that the "consensus package" would restore the financial solvency of the RUI system under Employment Assumption III as well as under Assumption II, it pointed out that Employment Assumption III is "unduly pessimistic" and regarded Assumption II as the most prudent assumption. Report at 3-30. Nonetheless, OMB has incorrectly labeled Employment Assumption II as "the rail panel's optimistic 'best guess'" employment assumption and Employment Assumption III as the "prudent" employment assumption (Testimony at 6). The RUC Committee utilized OMB's own interest-rate assumptions for purposes of its forecasts. However, in the testimony, OMB labels these assumptions as a mere "best guess" interest-rate assumption and deems it "prudent" to utilize CBO interest-rate assumptions, which are considerably more pessimistic. See Testimony at 6, 9.

OMB thus describes as "prudent" an assumption of economic conditions so catastrophic that railroad employment would be reduced by more than half in some 15 years (Employment Assumption III), plus a continuation throughout that period of extremely high interest rates at a level beyond that which OMB apparently deems to be "prudent" enough insofar as its own budget forecasts are concerned. In our view, it is not "prudent" to assume the worst of all possible worlds. Indeed, that kind of "prudence" may become self-fulfilling if it is utilized, as OMB would do, to impose upon the railroads a double unemployment tax burden which would be far beyond the burden imposed upon their competitors.

CONCLUSION

There are no easy solutions. Congress has some very difficult decisions to make in developing an appropriate and acceptable response to the problems with the RUI program. It will be even more difficult if some of the interested parties continue to jump from one set of assumptions to another in their appraisal of alternative proposals.

The RUC Committee, in good faith, reviewed the history, current status and future projections of the RUI program, utilizing the best available information and what was judged to be the most reasonable economic assumptions. A variety of proposals were considered and recommendations were made on the basis of these assumptions and information.

In the end, all of the interested parties may not be able to reach agreement as to the best solution; but we should be able, or at least make an attempt, to agree on the data and assumptions that will be used in analyzing the effects of the different proposals. We stand ready to work with Congress, OMB and labor in an effort to reach agreement on the assumptions that should be used in future Congressional deliberations. We believe that this is a critical next step that must be taken if Congress is to address the RUI problems on the basis of solid information and informed projections of the financial and other consequences of the alternatives considered.

TABLE 4.—PROGRESS OF THE RUI ACCOUNT FISCAL YEARS 1940–83 [1]

[In millions of dollars]

Fiscal year	Income					Outgo					Balances		
	Contributions	Interest	Loans from RR account	Transfers from UI administration fund	Other [2]	Benefits		Interest on loans from RR account	Repayment of loans from RR account	Other [3]	Available for payments	Loans due RR account	Net
						Unemployment	Sickness						
1940	44	(4)			2	15					31		31
1941	61	3		8	104	18					190		130
1942	76	5		4		9					266		266
1943	92	7		6		2				(4)	370		370
1944	109	8		12	(4)	1				(4)	498		498
1945	118	11		9	(4)	1				(4)	636		636
1946	116	13		10	(4)	21				(4)	755		755
1947	128	15		9	(4)	47				3	859		859
1948	131	18		10		32	27			2	956		956
1949	(4)	20		9		47	30			10	899		899
1950	10	18		4		114	29			3	785		785
1951	15	17		2		25	27			(4)	766		766
1952	15	16		4		23	26			(4)	753		753
1953	15	16		9		54	44			(4)	697		697
1954	15	16		3		96	45			(4)	590		590
1955	14	11		2		153	52				412		412
1956	28	8		4		55	50			(4)	346		346
1957	71	8		3		83	50			(4)	295		295
1958	90	6		(4)		169	53			(4)	171		171
1959	102	2				193	55			(4)	26		26
1960	153	(4)	184			209	66	1	85		3	100	−97
1961	153	(4)	132		20	207	55	1	31		14	205	[5] −211
1962	147	(4)	101		10	157	54	12	25	2	22	276	[5] −282
1963	150	(4)	38			117	50	9		20	14	314	[5] −307
1964	143	(4)	35	1		87	47	10	37	7	5	312	−306
1965	143	(4)	58	2		71	44	12	78		3	292	−289
1966	139	(4)	41	3		48	40	11	82		5	251	−246
1967	136	(4)	29	3		34	36	9	90		4	190	−186
1968	131	(4)	35	2		42	34	7	85		5	140	−136
1969	126	(4)	47	3	(4)	41	56	6	72		6	115	−109

1970	123	(4)	45	2	5	35	58	5	79		4	81	−77
1971	119	(4)	51	1	10	45	50	4	84		2	48	−46
1972	112	(4)	60		12	81	39	4	58		4	50	−46
1973	113	(4)	35	(4)	6	41	32	2	79		4	6	−2
1974	111	1	3	1	5	22	28	(4)	9		66		66
1975	109	5		(4)		38	30				114		114
1976	110	3	6			143	75	(4)	6		9		9
Transition quarter	34	(4)	19	1		26	21	(4)	14		3	6	−3
1977	169	(4)	57	6		102	78	3	16		36	46	−10
1978	204	1	14	4		128	69	3	29		31	31	(−4)
1979	193	1	3	4		81	61	1	34		56		56
1980	161	3		2		149	64				10		10
1981	163	1	137	(4)		200	57	8	22		23	115	−92
1982	181	2	171			290	56	28			3	286	−283
1983	158	1	289			[6] 336	56	56			4	575	−572
Cumulative 1940–83	4,734	242	1,590	143	175	3,882	1,744	192	1,015	47	4	575	−572

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[1] July-June fiscal years through June 1976, followed by July–September transition quarter and October–September fiscal years thereafter.

[2] Includes: $107,000,000 transferred from States under sec. 13 (1940–47), $30,000,000 noninterest bearing loans from Treasury (1961–62) and $38,000,000 transferred from the railroad retirement account under sec. 10(h)(1969–74).

[3] Includes: $5,000,000 reimbursed to States (1943–57), $12,000,000 transferred to the RUI administration fund (1949–50), $30,000,000 repaid to Treasury (1962–64) and several small miscellaneous adjustments.

[4] Less than $500,000.

[5] Includes amounts owed to Treasury.

[6] In addition, supplemental extended unemployment benefits were paid to certain workers with less than 10 years of service. These benefits, totaling $42,000,000, were financed by an appropriation from general revenues.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, September 21, 1984.

Hon. HAROLD E. FORD,
Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the U.S. Chamber, which is composed of nearly 200,000 member firms, I am pleased to submit our comments on proposals to merge the railroad unemployment insurance (RRUI) program with the federal-state unemployment compensation (UC) program.

Any proposal to merge should meet the following criteria:

The current and any future RRUI debt should not be transferred to the Unemployment Trust Fund (UTF);

A merger should be equitable, with no cost-shifting either to employers already under UC, or to the new railroad employers entering UC under the merger; and

A merger should be accomplished on a cost reimbursement basis (including administrative costs), until adequate time has elapsed to establish tax rates based on the experience of each employer.

The Railroad Unemployment Insurance Account (RUIA) is running a large deficit, presently in excess of $600 million, that is expected to grow even larger. Current economic conditions and continued stability in the railroad industry favor a merger of RRUI with the UC program. These circumstances offer an opportunity for long-term stability and reduction of the RUIA debt, without a disruptive impact on the UC program.

We will address the two principal merger proposals, one advanced by the management members of the Railroad Unemployment Compensation Committee as contained in the June 29, 1984, "Report of the Railroad Compensation Committee," and H.R. 6068, introduced by Rep. Conable.

MANAGEMENT MEMBER PROPOSAL

The report's Chapter 4, "Coverage of the Railroad Industry by the Federal/State Unemployment Insurance System," outlines the management member proposal.

Under this proposal, the RUIA debt would be repaid by the railroads at a flat rate sufficient to repay the full amount by the end of the year 2000. As long as the repayment tax rate charged railroad employers remains separate from the UTF and other regular federal and state unemployment tax rates, we have no objection to the repayment tax rate plan as part of a proposed RRUI/UC merger.

To avoid unfair cost-shifting to either existing UC participants or railroad employers entering the US system, the proposal includes railroad employer payment of the full state unemployment and Federal Unemployment Tax Act (FUTA) taxes. Adjustments may be made in accordance with the changeover date (from RRUI to UC system). Because administrative costs are included as a percentage of FUTA taxes, the railroad employer payment of FUTA taxes will assist in offsetting the administrative costs of the changeover and merger.

Railraod employers would be taxed by the states as newly covered businesses (which may vary from one to three years), until they have been covered for the period necessary under state laws to be subject to experience-rated tax rates.

However, a better approach is to allow states the option of bringing railroad employers into UC as reimbursable, rather than as newly covered, employers, paying an appropriate share of the administrative costs, until adequate time has elapsed to establish tax rates based on the experience of each employer.

Just as the RUIA should not be charged in any manner to the UTF, the newly merged railroad employer—as a reimbursable employer—would not be liable for additional state or FUTA taxes targeted for repayment of state loans from the Federal Unemployment Account (FUA).

H.R. 6068

Generally, H.R. 6068 meets our RRUI/UC program merger criteria. However, we suggest again that the newly merged railroad employers be treated as reimbursable employers, rather than as newly covered employers.

It is important to note that H.R. 6068 includes an implementation plan consistent with the state tax year—January 1. We favor this approach over the July 1 changeover date included in the management proposal for both practical and fiscal reasons.

Any merger proposal should give states adequate lead time to allow flexibility of implementation, assignment of tax rates, and similar matters.

We would be pleased to comment on any additional proposals to merge RRUI with the UC program.

I respectfully request that this letter be included in the hearings records.

Sincerely,

Albert D. Bourland,
Vice President, Congressional Relations.

State of Illinois,
Department of Employment Security,
Chicago, IL, October 1, 1984.

Hon. **Harold Ford,**
Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: Thank you for the opportunity to comment on the report of the Railroad Unemployment Compensation Committee. Illinois is particularly interested in the aspect of the report which addresses merging the current railroad unemployment compensation program with the federal-state system. During subcommittee deliberations of autonomy or merger with the larger state UI program nationally, we strongly urge Congress to carefully consider the financial consequences to states of a merger.

Like the Railroad UI program, many state unemployment insurance programs faced serious solvency problems over the last several years. The State of Illinois, and many other states, have taken action to significantly reduce benefits and increase taxes. Substantial progress has been made. Illinois will repay over $550 million in UI debt this year. These solvency efforts were designed for existing state UI programs. They do not provide sufficient revenue to fund unemployment benefits for railroad workers.

State unemployment insurance trust funds are just beginning to recover from the recent recession. Any additional burden could seriously threaten the financial health of many state UI systems. Prudence dictates that merging the Railroad system with these state systems be accompanied by adequate funding for all existing liabilities.

A preliminary analysis indicates that the funding level for transition costs recommended in the Report of the Railroad Unemployment Compensation Committee is insufficient. A more complete state-by-state study of transition costs is required before transition costs can be accurately determined.

In addition to transition costs, the long-term effects of extending state UI coverage to this industry must be considered. Railroad workers receive a relatively high wage and experience a high incidence of unemployment. This could result in serious financial consequences for many state UI programs.

Illinois estimated the benefit costs and the revenue generated by the state's share of railroad industry. Using the assumptions provided in the committee report, we project cumulative railroad industry deficits ranging from $30 million to $82 million over a six year period. (This assumes that all transition costs are funded from outside the state UI system and that none of the current Railraod UI debt is transferred to the states.) A restructuring of many state UI systems may be required to avoid a return to trust fund insolvency. States should be given an opportunity to enact the necessary revisions to state UI law.

Finally, the administrative changes required by a merger of this type must be recognized. Resources for these changes should not come from the limited funds available for administration of current programs.

I urge the members of the subcommittee to provide an accurate determination of all the costs which would result if these two systems were merged. If the systems are to be combined, appropriate mechanisms must be identified for funding resulting costs while preserving the integrity of state UI programs.

Thank you again for the opportunity to share my thoughts with you on Railroad Unemployment Insurance.

Sincerely,

Sally Ward, *Acting Director.*

National Governors' Association,
Washington, DC, September 14, 1984.

Hon. Harold Ford,
Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: Thank you for the invitation you extended to the National Governors' Association to testify at the September 18, 1984 hearing on the railroad unemployment insurance program. Unfortunately, my schedule will not permit my personal appearance before the Subcommittee on Public Assistance and Unemployment Compensation to present oral testimony. I therefore, appreciate the opportunity to communicate our thoughts on this program in writing.

For most of its history, the railroad unemployment insurance program has remained outside the purview of the federal/state unemployment insurance system. Last year, however, recommendations surfaced to integrate the railroad unemployment insurance program with the federal/state unemployment insurance system. We commend the members of the 98th Congress for not acting too hastily then to legislate such a significant change and for establishing a committee to study the issue more carefully.

The issue of consolidation of the railroad and federal/state UI programs has again been raised with the filing of the report of the Railroad Unemployment Compensation Committee. It is an issue the Governors view with great interest and they have asked me to share with you some of their concerns in this regard.

As the members of this Subcommittee are well aware, the federal/state unemployment insurance system has been experiencing financial difficulties for the last decade or so. States are attempting to restore solvency to their trust funds bankrupted in recent years from the payment of benefits to record numbers of claimants during long periods of unemployment. The outstanding accrued liabilities (principal and interest on loans to cover benefit outlays) of some states are historically unprecedented.

Current state efforts to achieve or maintain a sound financial footing for their unemployment insurance systems must not be jeopardized by any proposal to extend coverage under the federal/state UI system to the rail sector. States must be provided sufficient flexibility to develop appropriate financing mechanisms so that their trust funds will not be negatively impacted and the fiscal integrity of their UI systems can be safeguarded.

Having outlined the Governors overriding concern, I would like to detail some specific concerns should the members of this Subcommittee move to draft legislation that would require the integration of the railroad and federal/state unemployment insurance programs. Of primary importance in such discussions is how to effectuate the transition to extend coverage under the Federal Unemployment Tax Act and state unemployment compensation laws to railroad employment, phasing out the special rail sector program. In this regard, it is imperative that the division of financing responsibilities between the railroad industry employers and the states be carefully delineated. Similarly, the conditions of benefit eligibility on the part of railroad workers must be clearly defined. Essential also to the transition are assurances that there are sufficient funds in the Railroad Unemployment Insurance Account to reimburse states for compensation paid to individuals based in whole or in part on services and wages experienced prior to effective coverage under the federal/state UI system. The Railroad Unemployment Insurance Account currently is insolvent and the authority for this account to borrow from the Railroad Retirement Account expires on September 30, 1985. Moreover, states should not be forced to absorb the costs for administering the transitional provisions out of their base unemployment insurance grant for administrative services. There already are too many demands on these limited resources. Finally, sufficient time must be provided for states to change their relevant laws and to prepare administratively for the extension of coverage to the rail sector.

While earlier in its history, the federal/state unemployment insurance system may not have been well equipped to deal with interstate employment questions, over the years this system has demonstrated its capacity to deal effectively with the multi-state employment characteristic of the railroad industry. In fact, the railroad industry is the only private industry not now covered by this system. Although the Governors have taken no position on the integration of the railroad unemployment insurance program, it would appear that coverage of the railroad industry by the federal/state UI system is manageable. I would urge, however, that the members of the Subcommittee give serious consideration to this concerns I have detailed on behalf of the nation's Governors. Thank you again for the opportunity to share with you our thoughts on the railroad unemployment insurance program.

Sincerely,

Gov. RICHARD F. CELESTE,
Chairman, NGA Employment and Training Subcommittee.

STATEMENT OF HON. JAMES L. OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. Chairman and Members of the Subcommittee, in 1976, the House accepted a Senate amendment to limit the amount of unemployment benefits paid to persons receiving retirement annuities from prior employment to the amount by which their unemployment compensation exceeded any other benefit being paid. Congress subsequently adopted a series of amendments which delayed implementation. In April 1980, however, the amendment went into effect. Nationwide, thousands of unemployed individuals had their benefits reduced or terminated. Among those adversely affected were policemen, firemen and former military personnel, many of whom had been working for years in a second career. Members of Congress were deluged with legitimate complaints about the unfairness of a law which, in its application, totally deprived workers of insurance against the loss of current income.

Within six months of its implementation, the law was changed.

The revised law permits payment of unreduced benefits when the base period or chargeable employer for unemployment insurance benefits is different from the base period employer paying a retirement annuity. This modification removed the possibility of duplication of benefits for the same period of employment and, at the same time, restored protection against loss of current earned income.

Railroad workers, however, are treated differently and unfairly. The Railroad Unemployment Insurance Act still limits benefits to workers who are in receipt of "other social insurance." This term, as interpreted by the courts, includes "all retirement programs established by any level of government, local, state, or federal." An offset is required not only of retirement annuities, but also any worker's compensation or veterans compensation paid on the basis of injuries or disabilities which resulted in a loss of wage earning capacity.

As a result, unemployed railroad workers who are in receipt of such "social insurance" payments derived from non-railroad employment have little or no unemployment insurance protection. These same workers also have little or no benefits against the loss of railroad wages due to illness because sickness benefits also are offset by any other "social insurance" benefits the worker may be receiving. This offset of sickness benefits is compounded by a similar offset written into Supplemental Sickness Benefit Plans provided by rail employers.

Interestingly, the offset of unemployment or sickness benefits does not extend to disability benefits or retirement annuities paid by private employers or corporations.

I am very pleased that the two labor members and the Chairman of the Railroad Unemployment Insurance Committee recommended enactment of my bill, H.R. 871, which would remove from the Railroad Unemployment Insurance Act the offset of unemployment or sickness benefits based on non-railroad employment. I trust that Members of this Subcommittee will agree with me that railroad workers are entitled to the same protection against loss of current income that we afforded other workers in society by the enactment of Public Law 96-364.

I would also call to the Committee's attention another area where protection of unemployed railroad workers has fallen behind that of other workers in our economy. I refer to the legislation creating the Federal Supplemental Compensation program which provided additional benefits, fully financed by the Federal Government, during periods of sustained, high unemployment. In any legislation revising Federal Unemployment Compensation law in the next Congress, I would urge that railroad workers be made eligible for additional benefits when the national unemployment rate for railroad workers equals that of the rate which triggers benefits for workers in individual States.

I am also strongly supportive of an increase in the daily unemployment insurance and sickness benefit rate for railroad workers. The $25 a day rate which has been in effect since July 1976 is sadly out of date. The Railroad Unemployment Compensation Committee's recommendation that the rate be increased by $2 a week effective January 1985 and then partially indexed after 1987 is an extremely modest one. I urge Members of this Committee to consider whether this is not too low an adjustment in view of the change in the cost of living during the past eight years.

Thank you, Mr. Chairman, for this opportunity to present my views on these important issues.

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